Maura Healey, Governor
Kimberley Driscoll, Lieutenant Governor
Phillip Eng, Interim MassDOT Secretary
Jonathan L. Gulliver, Undersecretary and Highway Administrator

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TRANSPORTATION
HIGHWAY DIVISION

Bridge Replacement, N-24-004=P-05-008, Route 3 (NB & SB)
over North River
Design-Build

in the Towns of

NORWELL-PEMBROKE-MARSHFIELD

Best Value Design-Build Procurement

Phase 1
Request for Qualifications

Project No. 607349

March 11, 2026

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COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TRANSPORTATION
HIGHWAY DIVISION

NORWELL-PEMBROKE-MARSHFIELD:
BRIDGE REPLACEMENT, N-24-004=P-05-008, ROUTE 3 (NB & SB)
OVER NORTH RIVER
DESIGN-BUILD

BEST VALUE DESIGN-BUILD PROCUREMENT
REQUEST FOR QUALIFICATIONS

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1.0 INTRODUCTION

The Massachusetts Department of Transportation Highway Division (MassDOT) invites Statements of Qualifications (SOQ) from prospective Design-Builders to design and construct the replacement of Bridge N-24-004=P-05-008, Route 3 (NB & SB) over North River, for Design-Build Project 607349, as described in this Request for Qualifications (RFQ).

The term "Proposer" or "Design-Builder shall mean an individual, sole proprietorship, firm, partnership, joint venture, corporation, or other entity that provides Design-Build services and has responded to MassDOT's Request for Letters of Interest. Note that all Design-Builders proposing to submit as a Joint Venture must obtain prior approval of the Joint Venture through the MassDOT Construction Prequalification Committee.

A Best Value Design-Build (BVDB) Procurement process shall be used for the Project. The BVDB procurement is a two-phase selection process in which the first phase consists of creating a short-list of qualified Design-Builders as determined by responses to an RFQ. The second phase consists of the submission of Technical and Price Proposals in response to a Request for Proposal (RFP). This BVDB Procurement is authorized under M.G.L. c. 149A, ss. 14 et seq.

As described further in this RFQ package, interested Proposers must submit an SOQ in response to this RFQ. Each SOQ submitted must meet the requirements stipulated herein in order for MassDOT to consider the Proposer for short-listing.

MassDOT has established a preliminary Project Value of $103,050,000.00 for Project No. 607349, for replacement of the existing bridges over North River with new structures that will provide a 75 year design life and a minimum of a 100 year service life, and the associated approach roadway construction required to tie the approaches to the new bridge structure.

The work includes but is not limited to:

- Advancing Highway design through 75%, 100%, and Issued for Construction Highway, and through Construction of all elements.
- Advancing Bridge design through Structural Bridge Submittals and Issued for Construction Structural and through Construction of all elements.
- Demolition of the existing bridges N-24-004=P-05-008 (48U, 48X) Route 3 NB & SB over North River.
- Construction of new bridges N-24-004=P-05-008
- Full depth construction of Route 3 NB & SB at the approaches to the new bridge structures.
- Pavement milling and overlay for modification of pavement markings, removal of temporary pavement markings, restoration of roadway surfaces and transitions to existing conditions at work limits.

- Restoration of damaged pavement and disturbed areas within the Project limits.
- Landscape restoration and invasive plant species management within the Project limits.
- Filling of existing wetlands in the median area and providing wetland replication.
- Construction of updated roadway drainage and swales in final condition.
- Temporary traffic control and management, support of excavation, and other temporary work as necessary to maintain safe traffic operation and acceptable roadway conditions during construction.
- Implementing Real Time Traffic Management (RTTM) during construction.
- Coordination during design and construction with stakeholders, State/Municipal officials, and local businesses in conjunction with MassDOT.
- Coordination with the Towns of Norwell, Pembroke, and Marshfield .
- Community outreach program in conjunction with MassDOT, including maintenance of the Project website to distribute current construction information, particularly as it relates to traffic impacts.
- Compliance with applicable regulatory approvals and permits issued prior to Notice to Proceed and any amendments or reevaluation made during construction.
- Construction mitigation and proper disposal of Hazardous materials in accordance with Regulations and Local Laws.
- Construction noise mitigation.
- Construction dust mitigation.
- Coordination with adjacent construction projects.
- Environmental/waterway impact mitigation measures.

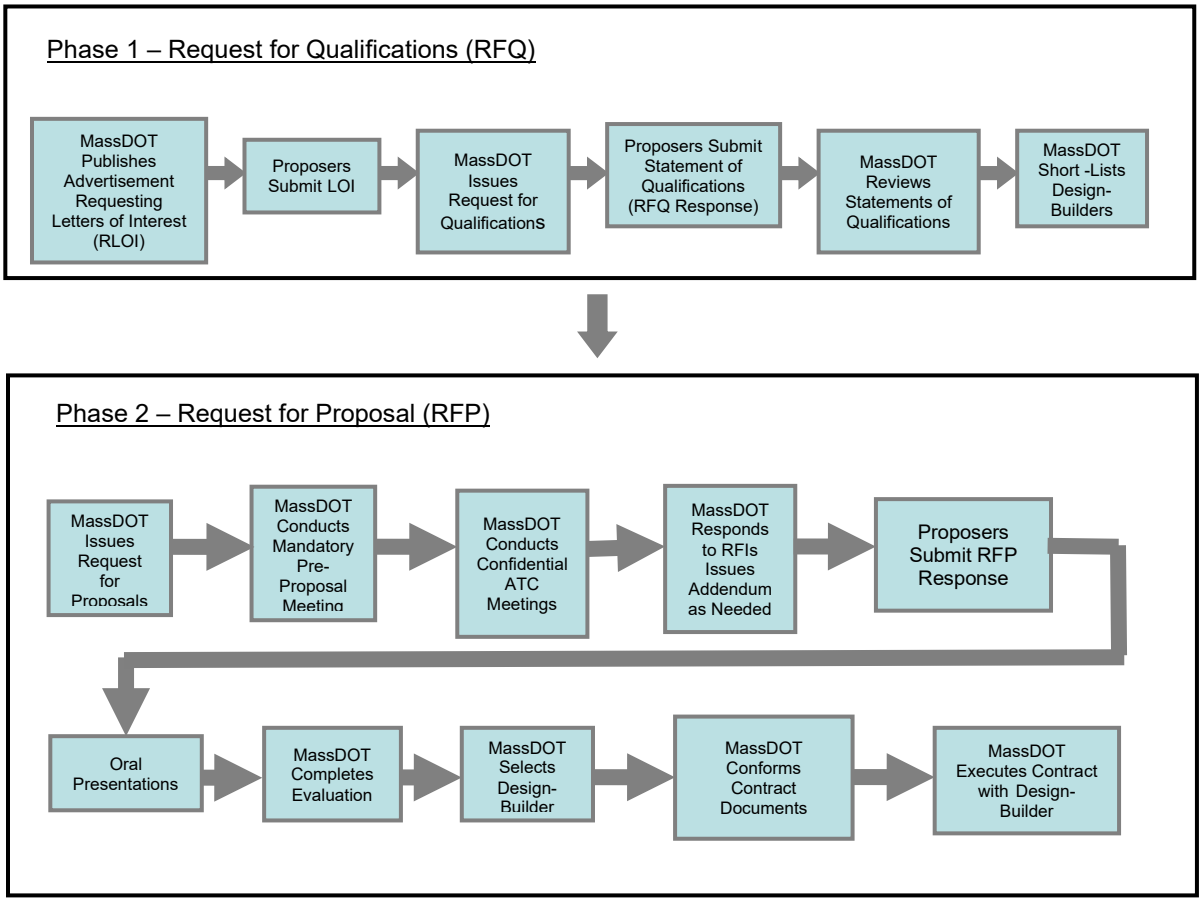
1.1 SELECTION PROCESS

Proposers that can provide a committed and qualified staff as required to perform the services described herein are encouraged to submit an SOQ. Design-Builders short-listed in accordance with the procedures described in this RFQ package will be invited to respond to the RFP phase for this Project.

Through the two-phase procurement process, MassDOT will select the proposal with the best value to MassDOT and the Commonwealth, in which the combination of technical, qualifications, schedule, operating, and pricing factors meet or exceed MassDOT's requirements identified in the RFP. The process is illustrated in Figure 1.

MassDOT has established a Selection Committee which will be responsible for the evaluation and ranking of the SOQs on the basis of the evaluation criteria set forth in the RFQ. The Selection Committee will also be responsible for evaluating and scoring the Technical Proposals on the basis of the criteria identified in the RFP. The designated individuals have been approved by the Chief Engineer.

Figure 1: Two-Phase Procurement Process Diagram



1.2 SCHEDULE OF EVENTS

The following table provides the Proposed Schedule of Events for this RFQ through Anticipated Notice to Proceed.

Table 1: Schedule of Events

Phase 1: Request for Qualifications	**Date**	**Time**
Advertisement of Project Letters of Interest in:		
MassDOT Weekly Ad / COMMBUYS	12/13/2025	
Local Newspaper / Central Register	12/17/2025	
Letters of Interest Due	3/10/2026	12:00 PM
RFQ Emailed to Interested Parties Submitting a LOI	3/11/2026	
RFQ Briefing (Virtual, by email invitation)	3/24/2026	10:00 AM to 12:00 PM
MassDOT A&E and Construction Prequalification Applications Due	3/30/2026	5:00 PM
RFQ Close date for questions	3/31/2026	12:00 PM
Statements of Qualifications Due	4/14/2026	12:00 PM
Design-Builders Short-Listed	5/15/2026	
Design-Builders Notified	5/18/2026	
Phase 2: Request for Proposals	**Date**	**Time**
DRAFT RFP Issued to Short-Listed Design-Builders	6/04/2026	
Confidential DRAFT RFP Meeting (Virtual)	6/16/2026	
FINAL RFP Issued to Short-Listed Design-Builders	7/16/2026	
Mandatory Pre-Proposal Meeting (Virtual, by email invitation)	7/28/2026	10:00 AM to 12:00 PM
ATC Meeting – 1	8/04/2026	TBD
ATC Meeting – 2	8/25/2026	TBD
ATC Meeting – 3	TBD	
Last Date to Submit ATCs	7/20/2026	
RFP Close date for Questions	9/08/2026	
Technical & Price Proposals Due	10/30/2026	
Oral Presentations	11/13/2026	
Public Price Proposal Opening Date	12/10/2026	
Anticipated Selection Date	TBD	
Anticipated Notice to Proceed	2/16/2027	

Information related to the continued development of the Project will be discussed at the RFQ Briefing. Each Proposer is encouraged to have a member attend the briefing. Information will not be provided after any briefing to parties who do not attend. Meeting minutes will not be distributed.

1.3 CONTACT INFORMATION

The Contact Person for this procurement is:

Eric M. Cardone, P.E.
Construction Contracts Engineer
Massachusetts Department of Transportation – Highway Division
Ten Park Plaza, Room 7874
Boston, MA 02116
(857) 368-9524

Email: eric.m.cardone@dot.state.ma.us

ATTN: Laura Montiel, Design-Build Project Manager

2.0 TERMS, DEFINITIONS, REFERENCE DOCUMENTS AND STANDARDS

2.1 REFERENCE DOCUMENTS

The Terms and Definitions that apply to this RFQ are located in Appendix A. In Phase 2 of the Procurement, Reference Documents will be provided to the short-listed Design-Builders. All Proposers acknowledge by receipt of any of the information, that they explicitly understand that this information is provided for reference. It is the Proposer's responsibility to verify all information. The selected Design-Builder will be required to provide a final, complete project design that is stamped and sealed by their own designer of record, for review and approval by MassDOT, FHWA, and possible third parties. MassDOT makes no representations as to the accuracy or completeness of information contained in any documents obtained from MassDOT and will not be responsible in any way for a Design-Builder's reliance on or utilization of the contents of such documents.

2.2 AASHTO, MASSDOT AND FEDERAL STANDARDS AND CODES

AASHTO, MassDOT and Federal standards are applicable to the final design and construction documents to be developed by the Design-Builder, including, but not limited to the following documents. It is the Design-Builder' responsibility to utilize the latest approved version of the supporting design guidance standards, regulations, etc. During the development and design of construction details and specifications it is necessary to suit this type of accelerated construction and sequencing. The Standard Specifications and Standard Details may not be applicable, and any modified details must be brought to the attention of MassDOT for review and approval.

1. Massachusetts Department of Transportation Design Build Procurement Guide (https://www.mass.gov/doc/design-build-procurement-guide/download)
2. MassDOT Project Development and Design Guide with latest online chapter revisions (https://www.mass.gov/manual/massdot-project-development-and-design-guide)
3. Commonwealth of Massachusetts Department of Transportation Standard Specifications for Highways and Bridges, 2026 Edition
4. 2026 MassDOT Construction Standard Details (https://www.mass.gov/info-details/construction-standard-details)
5. MassDOT Supplemental Specifications, latest edition.
6. MassDOT English Bid Nomenclature List, latest edition
7. 1996 MassHighway Survey Manual
8. All current MassDOT Engineering Directives
9. All current MassDOT Policy Directives
10. MassDOT Utility Accommodation Policy
11. MassDOT Bridge Manual - Hundredth Anniversary edition (https://www.mass.gov/manual/massdot-bridge-manual-hundredth-anniversary-edition)
12. AASHTO LRFD Bridge Design Specifications, 10th edition, 2024 with latest interims
13. AASHTO LRFD Bridge Construction Specifications, latest edition
14. AASHTO Guide Specifications for LRFD Seismic Bridge Design, Second Edition
15. AASHTO/AWS D1.5 Bridge Welding Code, latest Edition
16. PCI MNL-116 Manual for Quality Control for Plants and Production of Structural Precast Concrete Products, 5th Edition
17. PCI MNL 135-00 Tolerance Manual for Precast and Prestressed Concrete Construction, 1st Edition
18. FHWA Publication No. FHWA-IF-09-010 – "Connection Details for Prefabricated Bridge Elements and Systems" dated 3/30/2009
19. ACI 318-19 Building Code Requirements for Structural Concrete and Commentary
20. AISC Steel Construction Manual 16th Edition

21. AASHTO Guide Design Specifications for Bridge Temporary Works, Latest Edition with Interim Revisions
22. 2009 Manual on Uniform Traffic Control Devices (MUTCD), with Revisions 1, 2, and 3 and the Massachusetts Amendments to the MUTCD (11th edition) January 2026
23. MassDOT Standard Drawings for Signs and Supports, 1990
24. 2015 AASHTO LRFD Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals, 1st edition, includes 2022 interim revisions
25. MassDOT Overhead Signal Structure & Foundation Standard Drawings, 2015
26. American Standard for Nursery Stock (ANSI Z-60.2-2025) or latest edition
27. AASHTO A Policy on Geometric Design of Highways and Streets, 7th Edition (2018)
28. AASHTO A Policy on Design Standards – Interstate Systems, May 2016
29. AASHTO Roadside Design Guide, 4th Edition, 2011
30. AASHTO Manual for Assessing Safety Hardware, 2nd Edition, 2016
31. MEC (Massachusetts Electrical Code) in accordance with the National Electrical Code (NFPA 70) 2026
32. National Cooperative Highway Research Program Report 350 (NCHRP 350), 1993
33. American National Standard Practice for Roadway Lighting, ANSI/IES RP-8-22 (R-2022)
34. 310 CMR 10.00 MA Wetlands Protection Act
35. 310 CMR 9.00 MA Waterways Regulations
36. MassDEP Stormwater Management Standards, 2008.
37. MassDOT, Stormwater Design Guide, 2023 Edition
38. FHWA HEC-22 Urban Drainage Design Manual (Gutter Flow Analysis).
39. FHWA HDS 7, Hydraulic Design of Safe Bridges, **2024**
40. FHWA HEC-17 Highways in the River Environment – Floodplains, Extreme Events, Risk, and Resilience
41. FHWA HEC-18 Evaluating Scour at Bridges
42. FHWA HEC-20 Stream Stability at Highway Structures
43. FHWA HEC-25 Highways in the Coastal Environment
44. National Environmental Policy Act
45. Clean Water Act
    - Section 401 – Water Quality Certifications
    - Section 402 – National Pollution Discharge Elimination System (NPDES)
    - Section 404 – USACE Permits and Wetlands
    - Section 106 of the National Historic Preservation Act

46. Federal Endangered Species Act of 1973
47. American Iron and Steel Institute (AISI)
48. American National Standards Institute (ANSI)
49. American Society for Testing and Materials (ASTM)
50. American Society of Civil Engineers (ASCE)
51. American Welding Society (AWS)
52. Crane Manufacturers Association of America (CMAA)
53. International Electrical Code (IEC)
54. Occupational Safety and Health Administration (OSHA)
55. Steel Structures Painting Council (SSPC)
56. National Electrical Code (NEC)
57. National Electrical Manufacturers Association (NEMA)
58. Underwriters Laboratory, Inc. (UL)
59. Code of Federal Regulations
    - 23 CFR 625 – Design Standards for Highways
    - 23 CFR 626 – Pavement Policy
    - 23 CFR 630 – Preconstruction Procedures
    - 23 CFR 634 – Worker Visibility
    - 23 CFR 635 – Construction and Maintenance
    - 23 CFR 636 – Design-Build Contracting
    - 23 CFR 637 – Construction Inspection and Approval
    - 33 CFR Part 118.25 – Application Procedure, Approval of Lights and Other Signals

3.0 PROJECT OVERVIEW

The Massachusetts Department of Transportation, Highway Division (MassDOT) is undertaking a project to replace the structurally deficient bridges carrying Route 3 (NB & SB) over North River in the towns of Norwell, Pembroke, and Marshfield, Massachusetts, with two new bridges designed for a 75 year design life with a 100-year service life. The Project will be known as Norwell, Pembroke, Marshfield Bridge Replacement, N-24-004=P-05-008, Route 3 (NB & SB) over North River, Design-Build Project No. 607349.

3.1 PROJECT AREA

The Project is located in the towns of Norwell, Pembroke, and Marshfield, MA. The limits of the Project extend along Route 3 from just north of the route 139 interchange and extend to the north to approximately mile mark 28.2.

3.2 PROJECT SUMMARY

The Project is being advanced by MassDOT to replace the structurally deficient bridges on Route 3 (NB & SB) over North River. The Proposed Project consists of constructing two new bridges within the same general footprint of the existing structures. The proposed replacement bridges will provide a 75 year design life with a 100-year service life and meet criteria established for the proposed bridges while minimizing impacts to the environment, right-of-way, and the traveling public. The proposed bridges are each single span structures that will provide the required hydraulic clearances. The proposed work includes removing the existing bridges while constructing new foundations, abutments, and superstructure elements.

The southbound bridge will be located in the current median of Route 3 to support construction stages while minimizing impacts to traffic. The northbound bridge will remain in its current location and alignment. Both bridges will be widened to provide adequate shoulder widths.

The proposed work includes roadway reconstruction at each approach, drainage improvements, and landscaping.

3.3 PROJECT ELEMENTS

This Project involves several engineering specialties that will support its successful design and construction. The final design and details will be the responsibility of the Design-Builder. All record plans and reports provided are for reference only. All Design-Builders acknowledge by receipt of such plans that they explicitly understand that the Design-Builder shall be required to provide a final, complete project design that is stamped, sealed and certified by their own Professional Engineer of Record for review and approval by MassDOT and possibly third parties. The Professional Engineer must be registered in the Commonwealth of Massachusetts.

This scope of work is based on a preliminary design shown in the Base Technical Concept (BTC) plans to be provided to the short-listed Design-Builders. All aspects of the Project that are described below are subject to change. This section briefly describes the major infrastructure project elements and information that will need to be provided and/or considered by the Design-Builder during final design and construction. Major Project elements for this Project include but are not limited to Survey, Geotechnical, Bridge Design, Temporary Works Design, Bridge Construction and demolition, Highway Design and Construction, Stormwater Design, Traffic Engineering, Construction Mitigation and Permitting, Landscape Design and Restoration, Wetland Mitigation/Replication, Public Outreach and Coordination, and Hazardous Materials Assessment & Remediation.

Below is a brief description of the major elements for the purposes of understanding the scope of services for the RFQ. Modified and/or expanded descriptions, additional details, and specifications will be provided as part of the Request for Proposals (RFP).

3.3.1 Survey

The survey base plan was completed by Feldman Geospatial on January 30, 2023 and July 10, 2024 using ground survey, network RTK GPS and terrestrial scanning data acquisition equipment. Topography of the highway median was developed using available lidar data from MassGIS. Travel lanes were completed using Mobile Lidar provided by WSP USA, Inc. Additional topographic data was completed by GM2 on October 6 and October 29, 2025. The Survey Control Plans contained in the BTC will be provided to short-listed Design-Builders in Phase 2.

The Design-Builder is responsible for verifying and accepting the available survey for use in preparation of completing the Final Design Documents. The Design-Builder will be required to supplement the survey base plan with any existing detail that is needed to complete the Final Design Documents.

3.3.2 Geotechnical

Geotechnical Data Sheets have been prepared to show the soil/rock conditions at multiple locations within the Project limits in support of the BTC design. Additional Geotechnical Investigation will be completed by the Design-Builder.

The Design-Builder will be required to prepare a Final Geotechnical Report which supports the final design prepared by the Design-Builder, including but not limited to soil profiles, earth pressures at the abutments, retaining walls, temporary lateral earth support systems and excavations, soil bearing pressures for all of the contractor means and methods of construction, foundations for bridges, temporary structures, and all other geotechnical designs required to complete the Project. The report shall be prepared by a Geotechnical Engineer licensed in the Commonwealth of Massachusetts.

3.3.3 Utility Coordination/Protection/Relocation/Abandonment

Utility coordination and design plans will be the responsibility of the Design-Builder according to the MassDOT Design Phase Workflow. The Utility Design Phase Workflow is found on MassDOT's website address:
https://www.mass.gov/doc/massdot-utility-workflow-2014-design-phase-presentation-1/download

Utility work on this project includes, but is not limited to:

There are no known utilities in the project site with the exception of drainage and stormwater systems.

3.3.4 Bridge Design, and Construction Sequencing

The proposed Project BTC includes the design and construction of two bridges to replace the existing structural deficient bridges over North River. Phased construction is anticipated to maintain traffic on Route 3 NB and SB.

3.3.5 Employment of Accelerated Bridge Construction (ABC) Techniques

The Design-Builder is encouraged to utilize ABC techniques to complete the work. Some techniques to be considered include precast/prefabricated elements, rapid placement and compaction of fill subbase and pavement, extended work hours (with consideration given to traffic maintenance during peak hours), additional crews and equipment, and significant coordination between all trades involved. It is noted that extreme importance is given to the completion of all work required to complete the Project, open to traffic in the final configuration within the contract duration established for this Project. It is noted that all work is to be completed within the existing Rights-of-Way (ROW).

3.3.6 Highway Design and Construction

The Proposed Project includes roadway reconstruction and resurfacing along Route 3 northbound and southbound. Route 3 will be widened at each approach to match into the proposed bridge cross section. Full depth construction will be conducted immediate to each bridge approach associated with pavement milling and overlay at the areas transitioning back to existing. Other highway work includes the installation of guardrail and associated end treatments, hot mix asphalt berm, embankments and modified rock fill and improvements to the existing drainage system. .

3.3.7 Stormwater Design and Construction

The Project includes the design and construction of temporary and permanent stormwater management facilities along the corridor. Permanent improvements include the design and construction of stormwater BMPs in accordance with latest Massachusetts Stormwater Management Standards.

3.3.8 Traffic Engineering

3.3.8.1 Traffic Design

Within the Project limits, pavement markings and signage will be replaced or updated to conform to current standards and/or as depicted in the BTC plans.

3.3.8.2 Temporary Traffic Control

Two lanes in each direction along Route 3 will be maintained at all times. Ten (10) foot outside shoulders will be required to maintain peak hour travel. Short duration lane closures to complete work during off-peak hours is anticipated.

The Design-Builder will be required to design and submit temporary traffic control plans (TTCP) consistent with their final design for MassDOT approval. The Design-Builder shall be responsible for preparing TTCP design plans and documents stamped by a Professional Engineer registered in the Commonwealth of Massachusetts.

3.3.9 Wetland Mitigation/Landscape Restoration

This Project includes landscape design for site restoration in areas disturbed by construction and staging activities throughout the corridor. Permanent impacts to existing wetlands located in the median due to the realignment of Route 3 southbound will be replicated accordingly throughout the corridor. Wetland replication with landscape restoration is also included in the Project.

3.3.10 Environmental Permitting

The Project requires work within North River which is regulated as Waters of the US subject to protection under Section 401 and 404 of the Clean Water Act. Approval of the BTC will be obtained from the Massachusetts Department of Environmental Protection (DEP) under a 401 Water Quality Certification (WQC) and from the U.S. Army Corps of Engineers under General Permit 23 (GP 23) of the Massachusetts General Permits. MassDOT will be securing all necessary environmental permits for the BTC design. The Design-Builder will be responsible for adhering to all permit conditions.

Due to the presence of anadromous fish species within North River, Time of Year (TOY) restrictions have been established by the Massachusetts Division of Marine Fisheries (DMF) and the National Marine Fisheries Service (NMFS) which prohibit silt and noise producing activities within the River. The Design-Builder is responsible for complying with the TOY established for the Project Limits throughout construction.

An NPDES Permit will be the responsibility of the Design-Builder. Copies of the applications and the permits will be provided electronically to the short-listed Design-Builders during the RFP phase. The Design-Builder will be responsible for minimizing impacts to environmental resource areas. The Design-Builder will be responsible for adhering to all General and Special Conditions contained within the environmental permits. If the Design-Builder proposes any changes to the design or construction impacting resource areas, the Design-Builder will be responsible for obtaining necessary permit amendments and regulatory approvals.

3.3.11 Construction Mitigation and Permitting

The Design-Builder will be responsible for obtaining all construction-related permits and coordinating with Local Municipalities.

The Design-Builder will be responsible for all mitigation commitments and permit conditions established in the aforementioned permits and approvals. In addition to those items already mentioned herein, this includes but is not limited to:

- Construction noise mitigation will be required where construction noise exceeds allowable thresholds in the project area. Additional details on these limitations will be provided in the RFP.

A full list of these requirements will be provided in Phase 2.

3.3.12 Right of Way

Any temporary easements proposed by the Design-Builder to facilitate construction shall be the responsibility of the Design- Builder. Any new takings shall require an approved ATC and will be the Design-Builder's responsibility.

3.3.13 Public Outreach and Coordination

MassDOT has separately engaged the service of a public engagement consultant. The Design-Builder will work closely with the agency and this consultant to communicate Project information and engage the public. The Design-Builder will have an important role in public involvement and shall support MassDOT and its consultant by supplying the necessary content for public facing presentations, webpage updates, and any other media required for communicating Project information to all interested parties. The Design-Builder public involvement activities shall include, at minimum:

- Assign a dedicated member of the project staff to work with MassDOT's public engagement consultant to support public outreach activities through design and construction.
- Attend meetings and briefings as needed.

The Design-Builder will be responsible for providing content relative to the most current design, construction and traffic staging information available, for MassDOT review, in order for timely updates of the Project website by MassDOT.

3.3.14 Hazardous Materials Assessment & Remediation

The Project involves soil excavation to allow for construction of components of the bridges, roadway, temporary works, and other facilities within the project limits. The Design-Builder will be responsible for assessment of excavated materials and proper handling and disposal.

3.3.15 Incentive / Disincentive Clauses

MassDOT may propose an Incentive and Disincentive (I/D) clause for certain milestones of this Project. Details and definitions of the milestones and the I/D clause will be provided in the RFP for the short-listed Design-Builders.

3.3.16 Adjacent Projects

During the construction phase of the Project, the Design-Builder shall be required to coordinate the Design-Builder's efforts with local and government agencies, community groups, adjacent landowners, utility companies, MassDOT and municipal projects.

4.0 INSTRUCTIONS

4.1 SOQ SUBMISSION, DEADLINE, AND LOCATION INSTRUCTIONS

Statements of Qualifications submitted in response to this RFQ must be received by MassDOT, no later than the time and date specified in Section 1.2: *Schedule of Events*. SOQs must be addressed to:

Eric M. Cardone, P.E.,
Construction Contracts Engineer
MassDOT – Highway Division
Ten Park Plaza, Room 7874
Boston, MA 02116
(857) 368-9524

ATTN: Laura Montiel, Design-Build Project Manager

Each Proposer Team's POC shall request a secured link from MassDOT, 72 hours in advanced of the SOQ submission due date; to the following email address massdotspecifications@dot.state.ma.us. **NORWELL-PEMBROKE-MARSHFIELD Design-Build Project No. 607349 SOQ Secured Link Request** is to be placed in the subject line. In the body of the email request, the POC may request up to two (2) additional email addresses to which the secured link shall be sent. The MassDOT supplied secured link will be utilized for all confidential transmissions between the Proposer and MassDOT for the duration of the procurement.

Late submissions will not be accepted. Delivery of the SOQ shall be at the Proposer's expense. The time of receipt shall be considered when the SOQ has been officially documented by MassDOT, in accordance with its established policies, as having been received at the location designated above.

MassDOT will not be responsible for any communications or hardware breakdowns, transmission interruptions, delays, or any other problems that interfere with the receipt or withdrawal of proposals as required above either at the Proposer's transmitting location, at MassDOT's receiving location, or anywhere between these locations will not be considered grounds for a bid protest. The Department will not be held responsible if the Proposer cannot complete and submit an RFQ due to failure or incomplete delivery of the files submitted via the Internet. Submissions received after the time and date specified in Section 1.2: Schedule of Events deadline shall be considered non-responsive.

All SOQs submitted in response to this RFQ must consist of one electronically signed copy in searchable PDF format of the SOQ, including all required attachments, and must be accompanied by an e-signed Design-Builder Statement of Qualifications Transmittal Form pursuant to M.G.L. c. 110G, § 2.

Unauthorized communications or contact between Proposers, their employees, agents, or other related entities interested in submitting SOQs and MassDOT and any other person or entity participating on the Prequalification Committee or Selection Committee with regard to this Project are strictly prohibited. The only authorized communications shall be inquiries to the MassDOT Contact Person for this Project (identified in Section 1.3 of the RFQ) for general information about SOQ submission deadlines, issues or questions for clarification through addenda and the existence of any relevant addenda to the RFQ. Any questions or issues brought to MassDOT's attention that MassDOT determines require additional clarification will be addressed by issuing a written addendum. **All questions or issues for clarification and addendum acknowledgements** must be submitted to massdotspecifications@dot.state.ma.us for this RFQ by email as specified in Section 1.2, Table 1 in order to provide sufficient time for development and distribution of a response. In the request, please indicate the project number and municipality in the subject line. MassDOT will email addenda only to Proposers. It shall be the sole responsibility of the Proposer to ascertain the existence of any and all addenda issued by MassDOT.

Oral and other clarifications not issued through an addendum will be without legal effect. All addenda will be considered part of this RFQ, and the Design-Builder shall be required to acknowledge receipt of all addenda through the SOQ Transmittal Form attached hereto.

From the date of issuance of the RFQ, any Proposer that initiates or participates in any unauthorized communication directly or indirectly with any member or employee of MassDOT or any member of the Selection Committee or Prequalification Committees in connection with the selection process or the contract contemplated herein for this Project, is subject to disqualification.

4.2 SOQ SUBMISSION REQUIREMENTS

Proposers must, through their submission, demonstrate their ability to perform the scope of services required for this Project on budget, on schedule, and in a manner consistent with industry Quality Assurance (QA) standards. Prior successful completion of projects in similar scope and magnitude is of significant importance.

Proposers must demonstrate combined design and construction qualifications and prior experience to be considered for this procurement. As a result, the Proposers must satisfy the MassDOT A&E Board Pre-Qualification requirements and MassDOT Construction Contractor Pre-Qualification requirements detailed below.

4.2.1 A&E Board Pre-qualification

All Proposers must have a Major Participant that is prequalified by the MassDOT Architects and Engineers Review board in the areas of:

- Complex Roadway Design
- Complex Bridge Design and Rating

Instructions, forms and necessary materials for A&E Board pre-qualification are available on the MassDOT website at: https://www.mass.gov/prequalification-of-architectural-engineering-firms

If not currently prequalified in the above-listed categories, an interested Major Participant of a Proposer must submit all required materials, including an ADM-016 Prequalification Form, to the A&E Board by the date specified in Section 1.2 Schedule of Events. The audit portion of the A&E prequalification requirement is waived for this procurement. If MassDOT assigns a prequalification rating to any firm which has not fulfilled the audit portion for the prequalification requirements, such ratings shall only be valid for this Design-Build procurement. Pre-qualification by the A&E Board must be completed at the time of submission of the SOQ. Failure to do so will result in MassDOT rejecting the Proposer's SOQ. Pending applications will not be accepted. Expired prequalification letters will not be accepted.

Appendix B contains the listing of forms located on the web site listed above.

4.2.2 MassDOT Construction Contractor Pre-Qualification

All Proposers submitting Statements of Qualifications are required to have at least one Major Participant (see Appendix A: Definitions) that is pre-qualified by MassDOT in the BRIDGE – CONSTRUCTION category with a Single Contract Limit (SCL) of at least $103,050,000.00.

Each individual member of a Design-Build Joint Venture (JV) does not have to be prequalified in Bridge - Construction with an SCL of $103,050,000.00. However, JV Partners who are prequalified in Bridge - Construction can combine their individual SCLs to satisfy the $103,050,000.00 SCL requirement (Per 720 CMR 5.00)

The required documents, instructions and materials are available on the MassDOT website at: https://www.mass.gov/prequalification-of-horizontal-construction-firms

If not currently prequalified, an interested Major Participant of a Design-Builder must submit an application for prequalification. Pre-qualification by the Construction Prequalification Committee must be completed at the time of submission of the SOQ, inclusive of an approved waiver request to the Construction Prequalification Committee to participate in this Project without the necessary Single Contract Limit.

All Proposers desiring to submit a Statement of Qualifications for this Project must submit an active Prequalification Certificate from the Contractor Prequalification Office. Prequalification Certificates must be submitted with the Statement of Qualifications. SOQs submitted without the Certificate will be considered non-responsive. Requests for Official Proposal Forms (R-109s) are not required to be submitted with the SOQ.

All Proposers seeking to participate in the procurement as a Joint Venture must receive approval for the Joint Venture from the Contractor Prequalification Committee. This approval must accompany the Statement of Qualifications at time of submission.

Appendix C contains a listing of forms available on the web site listed above.

4.2.3 Overview of the SOQ

Interested Proposers are requested to submit a well-defined package outlining historical information related to capabilities, experience, and past performance on specific issues pertinent to the Design-Build Project. Design-Builder team organization, Key Project Team Members, and individual team history are required. The evaluation criteria and scoring system are outlined in Section 5.1 of this RFQ.

4.2.4 SOQ Format

The SOQ shall be organized in the following format:

- The SOQ shall be submitted electronically, when viewed electronically and printed on white paper with dimensions of 8.5 by 11 inches, has right and left margins of one inch. Some exceptions for paper size are provided below.
- The SOQ shall use Times New Roman font with a minimum size of eleven.
    - Use of different size fonts and an 11x17 inch paper are permitted for section headers, captions, tables, figures, and/or graphics, provided text is legible when printed and when viewed electronically. The 11” by 17” size layout will be counted as one page.
    - An alternate text with background colors are permitted within graphics and callout or text boxes; provided the text/color layout is legible when printed and when viewed electronically
- The SOQ shall adhere to a maximum page limit of 25 pages, not including Mandatory Disclosure Forms, section dividers or resumes, in response to this RFQ.
- Each page of the SOQ shall include a page number of total pages and identification of the Proposer in the page footer.

4.2.5 SOQ Organization

SOQs shall be submitted in the format outlined below. To be considered, the SOQ shall respond to all requirements in this part of the RFQ. The required sections of the SOQ are:

- Title Page (will not count towards the 25-page limit)
- MassDOT Letter of Transmittal for this Project (will not count towards the 25-page limit)
- Statement of A & E Board and Construction Prequalification (Certificate of Approval) (will not count towards the 25-page limit)
- Statement of Affidavit to enter into Project Labor Agreement (PLA)
- Section 1: Corporate Qualifications
- Section 2: Management Summary
- Section 3: Relevant Experience
- Section 4: Mandatory Disclosure Forms (will not count towards the 25-page limit)

The requirements for each SOQ section are detailed within this RFQ. The requirements include information that must be included in each SOQ response section which will, with the exception of Section 4, count toward the 25-page limit. Section dividers are not considered part of the 25-page limit but a Table of Contents is. Descriptions of public projects must be provided as part of Section 3, and a list of public projects, if set forth in an appendix, will not be considered part of the 25-page limit. Resumes may be provided in an appendix that will not be considered part of the 25-page limit. Include resumes for the Project Manager and Key Personnel and other Project Team members identified in the Organization Chart and any supportive technical information.

MassDOT Letter of Transmittal

The Proposer's SOQ shall include an executed Letter of Transmittal e-signed by an individual(s), authorized to bind the prospective Design-Builder contractually. The Proposer shall use the Letter of Transmittal attached to this RFQ. The Letter of Transmittal is all that is required for transmittal of the SOQ and will not be counted towards the 25-page limit. Any other cover letter submitted will be considered part of the 25-page limit.

Statement of A & E Board and Construction Prequalification

The prospective Design-Builder shall include a statement regarding current prequalification status by both the A & E Board and the Construction Prequalification Committee. The statement should indicate which Major Participant firms currently have (or have applied for and will receive by the submission date for the SOQs) the requisite prequalification. Prequalification letters are not considered part of the 25-page limit. Prequalification letters may be reduced in size and combined onto one sheet in the submission.

Statement of Affidavit for Project Labor Agreement

The Proposer's SOQ shall include an affidavit e-signed by an individual(s), authorized to bind the prospective Design-Builder contractually. The affidavit shall include a statement affirming the Proposer will enter into Project Labor Agreement (PLA) if deemed appropriate by MassDOT. The Affidavit is not considered part the 25-page limit.

Section 1: Corporate Qualifications

- Identify the proposed organization and role of each member firm of the Proposer on this Project. Identify the reporting and financial relationships of Joint Ventures. (Note: All Joint Ventures must be pre-approved).
- Include a summary overview of the corporation.
- Outline each Major Participant's approach to safety and risk management.
- Outline each Major Participant's QA procedures and policies.
- Provide a high-level description of each Key Project Team Member's and each Major Participant's organization, major business areas, and staff size.
- List existing workload and contracted commitments of all Key Project Team Members and Major Participants of the Proposer. It is acceptable to provide a total value of contract backlog for Each Major Participant in the SOQ and include a detailed listing in an Appendix.
- Provide a brief statement as to Major Participants' present standard insurance coverage or self-insurance program.
- As detailed in Section 4.9.8 Conflict of Interest provide a completed MassDOT Disclosure Form, included in Appendix D, for a determination for a potential conflict of interest for Participants per Section 4.9.8 or a written certification that none exists.

Section 2: Management Summary

- Assign and identify a full-time Project Manager as well as all other Key Personnel.
- Provide summary biographies for the Project Manager and Key Personnel. Include an organizational chart showing the Key Personnel who are being proposed to be in charge of the day-to-day work on the Project. (Key Personnel include the key persons in charge of construction, design, inspection, and testing.) Identify if the Key Personnel will be co-located at the Project office full-time or part-time. The use of 11x17 inch paper for this section is acceptable so long as text is legible when printed and when viewed electronically.

- At a minimum, the Key Personnel performing the function listed below shall be identified:

  Project Manager

  Quality Control Administrator

  The QC Administrator shall possess, at a minimum, a B.S. in Civil Engineering and be a Registered Professional Engineer currently licensed in the Commonwealth of Massachusetts and shall have a minimum of ten (10) years of experience in transportation design or construction. ***The QC Administrator shall be a certified NETTCP Quality Assurance Technologist.***

  Design Quality Control Manager

  The Design QC Manager shall be a Civil Engineer with, at a minimum, a B.S. in Civil Engineering and be a Registered Professional Engineer currently licensed in the Commonwealth of Massachusetts with experience on Design-Build and/or accelerated construction projects and with a minimum ten (10) years of experience in highway and bridge design. ***The Design QC Manager shall be a certified NETTCP Quality Assurance Technologist.***

  Design Manager

  Lead Structural Engineer

  Lead Roadway Engineer

  Lead Geotechnical Engineer

  Construction Manager

  Construction Quality Control Manager

  The Construction QC Manager shall be an Engineer with, at a minimum, a B.S. in Engineering and shall have experience on Design-Build and/or accelerated construction projects and with a minimum ten (10) years of experience in transportation infrastructure construction. In lieu of a B.S. in Engineering, the Construction QC manager shall have an additional five (5) years of management or materials testing experience in highway bridge construction. ***The Construction QC Manager shall be certified as a NETTCP QA Technologist.***

  Construction Superintendent

  Environmental Compliance Manager (Construction)

  The Environmental Compliance Manager shall be an environmental practitioner with a minimum of ten (10) years of experience in construction compliance for complex roadway and bridge projects.

**Note: In Phase 2 of the Procurement, the short-listed Proposers shall submit a Fabrication Quality Control Manager as Key Personnel. The Fabrication Quality Manager shall be a Certified Welding Inspector with bridge fabrication experience, responsible for approving fabrication procedures for MassDOT acceptance. The Fabrication Quality Manager shall be independent from the MassDOT Consultant Inspector assigned to the Project's fabricator(s). Further details to be provided in RFP Volume II.

- Identify where these personnel will be physically located during the time they are engaged in the work.
- Indicate the responsibilities that the Project Manager and other Key Personnel will have in this Project and how long each has been with each firm organization.
- Identify differing work locations and address coordination between Subcontractors, and the project management controls to be used to ensure proper communications and work flow needed to maintain the Project schedule and budget.
- Include information detailing the organization's Quality Assurance program, managerial approach to support this project, any process tools that will be utilized during this effort and the scheduling approach and tools that will be utilized within this effort.
- Describe the reporting structure within each key participant of the team as well as for the team as a whole.
- Identify past experience in dealing with project risk issues that are similar in nature to ones that may be present on this Project.
- Identify specifically how management will be involved in schedule issues and past practices employed to both manage schedule risk and recover lost time.
- Identify joint experience of key personnel in similar roles and their methods of team coordination.

If a Proposer believes that any change to any Key Personnel or Major Participants identified in its Statement of Qualifications is warranted after the deadline for submission of Statements of Qualifications (SOQ) and prior to the scheduled deadline for MassDOT evaluation of Statements of Qualifications, due to intervening event, the Proposer shall notify MassDOT in writing of the proposed changes. The Proposer shall not be able to change Key Personnel or Major Participants listed in its SOQ without the prior written consent of MassDOT. The Proposer acknowledges MassDOT will rely upon the Proposer's identification of Key Personnel and Major Participants in evaluating the Proposer's SOQ. In the event that any of the Persons listed as Key Personnel are proposed to be removed but remain employed by the Proposer or a Subcontractor, then the Proposer shall provide MassDOT with a written explanation for such removal to be approved by MassDOT, whose approval shall not be unreasonably withheld. Key Personnel positions shall remain filled for the duration of the Project.

- In addition to the key personnel listed above, the Proposer shall also identify the following Project Team Members in their SOQ organizational chart:

  Lead Traffic Engineer

  Traffic Control Supervisor

  The TCS will be the Responsible Person in Charge of the project work site relative to all design and/or setup and maintaining temporary traffic control in the work zone. The TCS shall be certified by the American Traffic Safety Services Association (ATSSA) and shall have completed the Traffic Control Technician training as a prerequisite for the Traffic Control Supervisor training and meet all the minimum TCS certification requirements of the ATSSA Certification Board. The TCS certification must be current and remain current for the duration of the Project

  Environmental Permitting Manager (Design)

  The Environmental Permitting Manager (Design) will be responsible in overseeing the completion and adherence to permits and regulatory guidelines for the impacts associated with the Project. The Environmental Permitting Manager shall be an environmental practitioner with a minimum of ten (10) years of experience in the design permitting and construction of complex roadway and bridges.

  Safety Compliance

  Hydraulic Engineer

  Public Outreach Liaison

  MassDOT is retaining the services of an independent outreach consultant. The Design-Builder shall identify a Public Outreach Liaison to interface with the MassDOT outreach consultant. The responsibilities of the Public Outreach Liaison shall include but are not limited to providing timely, accurate information needed for regular and stand-alone updates to the public, answer questions which come in from Public Officials/community members, and to relay complaints and/or concerns regarding dust, noise, traffic or other issues pertaining to the project.

  Document Control Engineer

  Project Scheduler

  Civil Rights Compliance Manager

  The Design-Builder's designated person who is working under the direction of the Project Manager shall be responsible for monitoring all Civil Rights Compliance requirements and achieving the EEO goals described in the contract documents.

Section 3: Relevant Experience

- Detail the project experience of the Proposer's Team Members. This should include individual Proposer's Team Members past experience with Design-Build and/or Design-Bid-Build projects of similar type and magnitude.
- Provide a complete list of ALL public projects by all Design-Builder's JV Team Member firms and Major Participants, including Lead designer firm for the prior (3) years. Listing of public projects and other design professionals need not be provided. Provide a brief description of the work performed, the value of the work, the date completed/expected to be completed and a contact person. Submission of this information is NOT optional. The information can be provided in tabular format and placed in an appendix that will not be considered part of the 30-page limit. The project listing must be complete and cannot be limited by category, project value or location.
- Provide a minimum of two (2) summary descriptions of projects similar in scope and capabilities/complexity in construction which has been completed in the last twelve (12) years for each Proposer's Major Participant (construction) Team Member that have similar roles to those proposed for this Project. If the Project is not a MassDOT Project, provide a contractor performance evaluation and/or a reference from the Owner and a contact person for each of these projects.
- The Proposer's Major Participant (construction) Team Member shall have a MassDOT Construction prequalification single class limit in the applicable category of work equal to or greater than the estimated project value or a submitted approved waiver to Bid.
- Provide a minimum of two (2) summary descriptions of projects similar in scope and capabilities/complexity to this Project in design which has been completed in the last twelve (12) years for each Major Participant (design) Proposer member that have similar roles to those proposed for this Project. If the Project is not a MassDOT Project, provide a consultant performance evaluation and/or a reference from the Owner and a contact person for each of these projects.
- Provide a minimum of two (2) summary descriptions of projects similar in scope and capabilities/complexity to this Project which has been completed in the last twelve (12) years for the proposed Project Manager for this Project including their Construction responsibilities and any Design responsibilities. If the Project is not a MassDOT Project, provide a performance evaluation and/or a reference from the Owner, and a contact person for each of these projects.
- Provide a minimum of two (2) summary descriptions of projects similar in scope and capabilities/complexity to this Project which has been completed in the last twelve (12) years for the proposed Construction Quality Control Manager for this Project including their Quality Control responsibilities. If the Project is not a MassDOT Project, provide a performance evaluation and/or a reference from the Owner.
- Discuss the keys to success for these projects.

Note: Relevant experience may include current projects provided that they are substantially complete in advance of NTP.

The use of 11x17 inch paper is acceptable for the summary descriptions. Each project description shall include:

1. An overview of the project covering type of client, objective, project scope, role of the firm and outcome;
2. Past experience in Design-Build and/or Design-Bid-Build design and construction;
3. Description of Complex bridge design (superstructure and substructure) and construction sequencing including structures over navigable waterways, and marine construction;
4. Description of Geotechnical investigation and coordination and implementation into the design and construction;
5. Description of implementation of Traffic Management Plans;
6. Description of environmental permitting, compliance, mitigation or other environmental requirements or considerations;
7. Description of municipality coordination;
8. Description of experience with hazardous materials assessment and remediation;
9. Description of experience with reducing project schedule durations;
10. Project performance measures including proposed cost, actual project cost, proposed project schedule and actual project schedule;
11. Names and contact information (name, title, address, and current telephone number) for one or two references from the client. Please be sure that all contact information is current;
12. Type of project (design, Design-Build, Design-Bid-Build…);
13. Date of project acceptance;

Section 4: Mandatory Disclosure Forms

Please be advised that the submission of the Mandatory Disclosure forms identified below is NOT optional for any Major Participant including the lead designer. Failure to provide this information may result in the SOQ being deemed Non-responsive.

The Design-Builder and any Major Participant must provide the Mandatory Disclosure forms as part of the SOQ. Failure to complete these forms as instructed will be grounds for disqualification.

1. Terminations and Legal Proceedings**:** Each Design-Builder's Major Participant **must complete Schedule A** attached to the RFQ below. On Part A of Schedule A, Design-Builders are required to list each and every project on which the firm was terminated or failed to complete the work within the past seven (7) years. On Part B of Schedule A, Design-Builders are required to list each and every conviction or fine incurred by the Design-Builder firm or any of its principals for violations of any state or federal law within the past seven (7) years; **and**, a complete list of any and all legal proceedings, administrative proceedings and arbitrations whether currently pending or concluded within the past five (5) years ((ten (10) years for litigation or legal proceedings that involving allegations against the firm of false claims, fraud or malpractice)) involved a construction project or a construction contract in which the Design-Builder firm was a named party. Attach additional sheets if necessary. On Part C of Schedule A, Design-Builders are required to list any outstanding compliance or other agreements which relate to the procurement or performance of any public or private construction contract which, if unfulfilled, would preclude the firm's participation in public works projects.
2. Safety Record**:** Each Design-Builder's Major Participant **must provide** its experience modifier for the past three (3) years by writing it on **Schedule B** of the RFQ and each Major Participant **must attach** to Schedule B documentation from its insurance carrier of its Workers' Compensation Experience Modifier for the past three years.
3. Letter from Surety Company Evidencing Bonding**:** The Design-Builder **must attach** to **Schedule C** of the SOQ a letter from a surety company that is licensed to do business in the Commonwealth and whose name appears on United States Treasury Department Circular 570, on the surety company's letterhead (or a letter from a surety agent with attorney in fact authority and an original power of attorney accompanying the letter) confirming that it will provide the Design-Builder with payment and performance bonds on the Project in an amount equal to or greater than 100 per cent of the estimated construction cost of the Project. This letter can either reference the Design-Builder's bonding or separate letters for each Major Participant may be submitted.
4. Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters: The Design-Builder **must attach** a completed **Schedule D.**
5. Surety references for the Design-Builder or each Major Participant.
6. A copy of an approved Affirmative Action Certificate or a copy of the letter transmitting the Affirmative Action plan to the MassDOT Office of Diversity and Civil Rights as provided in Section 4.9.4.

4.3 RFQ AMENDMENT

MassDOT reserves the right to amend this RFQ at its discretion prior to the SOQ submission deadline. In the event of an amendment to this RFQ, MassDOT, at its sole discretion, may extend the SOQ submission deadline as it deems appropriate. MassDOT will provide individual notifications to firms that have submitted an LOI within this procurement.

4.4 PROPERTY OF MASSDOT

All material received in response to this RFQ shall become the property of MassDOT and will not be returned to the Design-Builder with the exception of confidential financial information which electronic file will be deleted upon request, and upon completion of both phases of this Procurement.

4.5 CONFIDENTIALITY OF SOQ

All SOQs will remain confidential until the time of Contract Award or cessation of this procurement.

4.6 PUBLIC DISCLOSURE

All financial information, trade secrets or other information customarily regarded as confidential business information shall not be deemed to be public information and shall remain confidential to the extent permissible under current law. The Design-Builder shall clearly watermark all material "CONFIDENTIAL".

4.7 NON-COMMITMENT

Notwithstanding any other provision of this RFQ, this RFQ does not commit MassDOT to award a contract. MassDOT reserves the right, at its sole discretion, to reject any and all SOQs, or any portions thereof, at any time; to cancel this RFQ; and to solicit new SOQs under a new acquisition process.

4.8 SOQ PREPARATION COSTS

By submitting the SOQ, the Proposer agrees that in no event shall MassDOT be either responsible for or held liable for any costs incurred by a Proposer in the preparation of or in connection with the SOQ, or for work performed prior to the Effective Date of a resulting contract.

4.9 NOTICE TO DESIGN-BUILDERS

4.9.1 Location

Design-Builders submitting proposals in response to this RFQ must have an established, fully staffed office or be willing to establish a Project office within approximately one (1) mile of the Project.

4.9.2 Bonding

The selected Design-Builder shall be bonded for 100% of contract costs prior to Contract execution.

4.9.3 Teaming Agreements

This procurement requires written approval from MassDOT prior to the Design-Builders substituting, replacing, deleting, or adding team members after the SOQ is submitted. MassDOT reserves the right to reject any and all requests at its sole discretion.

4.9.4 Affirmative Action/Equal Employment Opportunity (AA/EEO)

A. Consultants and Subconsultants of the selected Design-Builder with 50 or more employees and expected to perform services valued at $50,000 or more are required to have an Affirmative Action Plan for the current year on file with MassDOT. The plan must comply with the provisions of 41 C.F.R. Part 60-2.

   Affirmative Action Plans can be submitted to MassDOT Office of Diversity and Civil Rights for review before submission of the SOQ. As part of the SOQ, the Proposer's Design Consultant Team Members are required to supply a copy of an approved Affirmative Action Certificate or a copy of the letter transmitting the plan to the MassDOT Office of Diversity and Civil Rights.

B. Consultants and Subconsultants of the selected Design-Builder with less than 50 employees and expected to perform services valued at $50,000 or more are required to submit the firm's Affirmative Action Policy.

   Address questions regarding AA/EEO requirements and/or request to renew affirmative action certificates to:

   Ms. Ana Bresciani
   Massachusetts Department of Transportation
   Office of Diversity and Civil Rights (ODCR)
   10 Park Plaza, Suite 3800
   Boston, MA 02116-3973
   Telephone: (857) 368-8636
   Email: MassDOTAffirmativeActionCert@dot.state.ma.us

4.9.5 Reserved for Future Use

4.9.6 Nondiscrimination

The selected Design-Builder shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of Subcontractors, including procurement of materials and leases of equipment placed under the contract.

The selected Design-Builder and their respective Subcontractors shall assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age, or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training.

In the event of the Design-Builder's noncompliance with the nondiscrimination requirements stipulated by the Required Contract Provisions this will be considered a material breach of this Contract and may result in the termination or suspension of the contract, in whole or in part, or such sanction or remedy deemed appropriate by the MassDOT, as provided by law, rule or regulation.

The Design-Builder shall insert these stipulations, as contained in the Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made.

4.9.7 Insurance and Risk Management

Prior to Contract Award, the Design-Builder shall indicate methods of complying with the liability and insurance requirements of the Design-Build Contract Standard Provisions. Section 4.2.5, Section 1: Corporate Qualifications, of the RFQ requires a brief statement as to Major Participants' present standard insurance coverage or self-insurance program.

4.9.8 Conflict of Interest

This Organizational Conflict of Interest Guidance ("Guidance") has been developed by the Massachusetts Department of Transportation ("MassDOT") with respect to future participation by entities and individuals who intend to or who may participate ("Participants") on the NORWELL-PEMBROKE-MARSHFIELD: Bridge Replacement, N-24-004=P-05-008, Route 3 (NB & SB) over North River, Design-Build Project No. 607349 ("Project"), which is being funded in whole or in part by the Federal Highway Administration ("FHWA"). This guidance was developed to further MassDOT's aim and objective in maximizing competition and ensuring fairness amongst entities and individuals competing for work on the Project. The FHWA requires that MassDOT, as a recipient of FHWA funding, conducts its procurements in a manner that provides for full and open competition in accordance with 49 U.S.C. §5325(a). This Guidance will also facilitate the protection of MassDOT's interests and confidential and sensitive Project information as well as assist Participants in making informed business decisions.

MassDOT is utilizing a design build procurement process under M.G.L. Chapter 149A ("Procurement"). MassDOT has conducted a review of applicable laws, regulations, guidance, policies and contract terms to determine whether a conflict of interest or the appearance of a conflict of interest would preclude an entity or an individual from participating in the contractor procurement. This guidance will set forth the basis for these determinations and the process by which it will be decided whether certain entities and individuals will be precluded. For the purpose of this Guidance, any reference to a conflict includes organizational conflicts of interest as well unless specifically stated otherwise.

4.9.9 Applicable Laws, Regulations, Guidance, Policies and Contract Terms

4.9.9.1 Criteria for Reviewing Potential Conflicts of Interest

Generally, MassDOT will apply the following criteria in reviewing a potential conflict of interest:

a. *Lack of Impartiality*. When the Contractor is unable, or potentially unable, to render impartial assistance or advice to MassDOT due to other activities, relationships, contracts, or other circumstances;

b. *Impaired Objectivity*. When the Contractor's objectivity in performing the Contract work is or might be otherwise impaired due to other activities, relationships, contracts, or other circumstances and;

c. *Unfair Competitive Advantage.* The Contractor has an unfair competitive advantage.

Based on the above criteria, a designer, programmer, consultant or key subconsultant that performs a feasibility study, master plan or program for a project is ineligible for a subsequent appointment or employment to perform design development services for that project, unless sound reasons in the public interest otherwise dictate.

4.9.9.2 Federal Law

Under Federal law, recipients of aid from the United States Department of Transportation ("DOT") must conduct procurements in a manner that provides "full and open competition as determined by the Secretary." 49 U.S.C. §5325(a). The Office of Management and Budget regulations applicable to procurements by third-party grantees of DOT provide that "contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements," and list organizational conflicts of interest as among "the situations considered to be restrictive of competition.: 2 C.F.R. §200.319(a).

Additionally, 23 CFR § 636.116 provides in part:

(1) Consultants and/or sub-consultants who assist the owner in the preparation of a RFP document will not be allowed to participate as an offeror or join a team submitting a proposal in response to the RFP. However, a contracting agency may determine there is not an organizational conflict of interest for a consultant or sub-consultant where:

(i) The role of the consultant or sub-consultant was limited to provision of preliminary design, reports, or similar "low-level" documents that will be incorporated into the RFP, and did not include assistance in development of instructions to offerors or evaluation criteria, or
(ii) Where all documents and reports delivered to the agency by the consultant or sub-consultant are made available to all offerors.

4.9.9.3 State Law

Certain state statutory provisions are applicable to this Guidance.

The participation of certain contractors and individuals are restricted by M.G.L. Chapter 268A, the Massachusetts Conflict of Interest Law.

M.G.L. Chapter 30, §39M1/2 and M.G.L. Chapter 149A, §151/2 require that the owner's representative for a project by wholly independent of the designer, general contractor or any subcontractor involved in the project.

Under M.G.L. Chapter 149A, §18: "The design professional retained to provide technical assistance and consulting services to the awarding authority shall not be eligible to participate in any way as a member of the design build entities competing for the award of the design-build contract."

4.9.9.4 MassDOT Contracts and Other Requirements

Subsection 2.08 of MassDOT's standard terms and conditions for Consultant Contracts provides:

> The Consultant is advised that its performance of work for MassDOT may, at any time, raise questions about real or perceived conflicts of interest because of the Consultant's relationship to other entities or individuals, including without limitation: (1) private and public owners of properties that abut or may be affected by the Project, and/or (2) other state-created entities with potentially conflicting interests and/or concerns.

Conflicts may also arise as a result of the Consultant's role at an earlier stage of a project. If the Consultant's role at an earlier stage was significant, e.g., it included assistance in the development of instructions to bidders, detailed cost estimates, project schedules, evaluation criteria or other key documents and information that assisted MassDOT in determining the scope, budget or schedule of the Project, or in choosing among design alternatives or design firms, the Consultant may be precluded from participation in the Project at a later stage. All potential conflicts must be disclosed to MassDOT and MassDOT will determine whether or not the Consultant may be awarded a contract or assignment.

The Consultant agrees to certify from time to time, in a form approved by MassDOT, that in connection with its work, it is in full compliance with the provisions of Chapter 268A of the Massachusetts General Laws, and any other applicable conflict of interest laws.

4.9.9.5 Criteria for Determining Conflicts of Interest

The following rules are applicable to the Procurement with respect to conflicts of interest. In some cases, entities may be subject to more than one of these rules:

a. Entities that are unable or potentially unable to provide impartial assistance to the MassDOT, or whose objectivity in performing the contract is or might be otherwise impaired, due to other activities, relationships, contracts, or circumstances.
b. Entities that have an unfair competitive advantage including through access to non-public information which information cannot be made public or the unfair advantage otherwise cured.
c. Entities that performed a feasibility study, master plan or program for the Project are ineligible to perform design development services unless MassDOT determines in its sole discretion that sound reasons in the public interest otherwise dictate.
d. Entities that have developed or drafted specifications, requirements, statements of work, or invitations for bids or requests for proposals or otherwise have helped establish the ground rules for the Project.
e. Entities whose participation would create the appearance of a conflict of interest.
f. Entities precluded from participation under M.G.L. c. 268A.
g. Entities that are precluded from participation due to the terms of a prior procurement or contract.

4.9.9.6 Conflict of Interest Determination for Entities

MassDOT shall determine whether an organizational conflict of interest exists with respect to an entity and whether the conflict would result in that entity being precluded from participation in the Procurement or whether any conflict could be waived, avoided, neutralized, or mitigated. By applying these rules, MassDOT will determine whether certain entities that have participated in the Project should be precluded from participating in the Procurement.

4.9.9.7 Process for Determining Conflicts of Interest

Determinations shall proceed in accordance with instructions provided by MassDOT in this Guidance and the solicitation documents.

Participants seeking a determination as to that Participant's conflict of interest status are encouraged to submit a Disclosure Form (the "Form") attached in Appendix D at least fourteen (14) days prior to the submission of Statement of Qualifications.

The Form shall be submitted by email to Narayana Murthy Kolla at narayana.kolla@dot.state.ma.us.

Participants must submit details of any conflict of interest issues as they currently or potentially exist. In the event of a conflict of interest, Participants must provide MassDOT with recommendations to avoid, neutralize or mitigate the conflict, in compliance with the FHWA and all other applicable requirements. MassDOT shall review the Form and may request additional information to assist its review. MassDOT at its discretion may conduct additional research or conduct meetings to gain supplemental information. MassDOT will make the final determination as to whether a conflict of interest exists and whether the Participant's recommendations to avoid, neutralize, or mitigate it are sufficient.

In making any determination, MassDOT may consider all applicable circumstances and factors such as whether any conflict of interest is of an indirect, remote or *de minimis* nature and whether there are sufficient qualified and skilled entities available. MassDOT may also decide that there are sound reasons in the public interest that would allow a conflict of interest to be waived or mitigated through, for example, the implementation of suitable safeguards to mitigate any conflict of interest. These safeguards may include without limitation, ethical walls and procedures for segregation of personnel and information.

Any Determination shall be made in MassDOT's sole discretion.

4.9.9.8 Conflict of Interest Determinations for Individuals

Massachusetts' Conflict of Interest Law, Chapter 268A § 1 (q), provides that in contracts for engineering or environmental services, where an individual within the corporate structure is specifically targeted to perform the services, the company is precluded from bidding on the design build phase of the project because that individual has been deemed a state employee subject to all the provisions of the Conflict of Interest Statute, G.L. c, 268A. The determination as to whether a conflict exists under M.G.L. c. 268A for any individual is a matter to be addressed and decided upon by the Commonwealth's State Ethics Commission.

If MassDOT determines that a potential or actual organizational conflict of interest exists for a Participant, an organizational conflict of interest shall also be considered to apply to any employee of such entity who has participated in a material way in the performance of work giving rise to the determination. If such individual leaves the entity's employment, the potential or actual organizational conflict of interest shall apply to such individual in the same manner as it applies to the entity. However, the individual's new employer will not be considered to have an organizational conflict of interest provided the new employer adopts and implements safeguards and mitigation measures satisfactory to MassDOT in its sole discretion.

MassDOT may require Participants and/or individuals to certify from time to time, in a form approved by MassDOT, that in connection with its work, it is in full compliance with the provisions of Chapter 268A, and any other applicable conflict of interest laws.

4.9.9.9 Conflict of Interest During Project

MassDOT reserves the right to: a) require any Participant to take any action necessary to remove any conflict of interest; or b) to terminate or amend any contract with the Participant if, in the reasonable opinion of MassDOT, any such personal or business relationship would constitute, or have the potential to create, a conflict of interest that cannot be remedied. Participants must disclose in writing any conflicts of interest occurring during the period of performance for the Project and, upon request of MassDOT, supply MassDOT with such information it determines to be necessary to determine whether a conflict of interest exists. Participants shall consult with MassDOT to learn what action must be taken to resolve such conflicts and comply with all applicable laws and policies.

4.9.9.10 Failure to Comply with Guidance

If MassDOT determines, in its sole discretion, that a Participant has failed to comply with this Guidance in any respect (including any failure to disclose an actual, perceived or potential conflict of interest) or with the requirements of any conflict of interest determination, MassDOT may take appropriate action which may include without limitation, preclusion of the Participant and any of its parents, affiliates, subsidiaries, subcontractors or subconsultants; requiring the implementation of mitigation measures; or cancellation or amendment of any contract under which the Participant is working on the Project and such termination may be deemed to be a termination for default by the Participant. In the event of any such termination MassDOT shall not be liable for the reimbursement of all or part of the costs incurred or alleged to have been incurred by the Participant or any of its parents, affiliates, subsidiaries, subcontractors or subconsultants. Additionally, MassDOT shall be entitled to recover any and all payments made to the Participant subsequent to the date when the Participant became aware of or should have become aware of the existence of the conflict of interest.

5.0 SOQ EVALUATION PROCESS

5.1 EVALUATION CRITERIA

Selection of Design-Builders for Phase 1, the prequalification process, will be based on the submitted information and materials requested pursuant to the RFQ. Proposers must include all materials required in this RFQ, including Schedules A through D. Proposers, and their Major Participants when required, must give complete and accurate answers to all questions and provide all of the information requested. Altering the text of the forms or schedules in any way or making a materially false statement in this submission is grounds for rejecting a Statement of Qualifications submission and may subject the Proposer to other civil or criminal penalties.

A. Certification, Capacity and Bonding

a. Required Certification

All Proposer' Team Members must be currently certified through the MassDOT A & E Board and/or the MassDOT Construction Prequalification Committee in accordance with Sections 4.2.1 and 4.2.2 of the RFQ.

b. Bonding Capacity

The Proposer shall provide evidence of bonding capability in an amount equal to or greater than 100 percent of the estimated construction cost for this Project (as set forth in the General Information section above) on Schedule C. The evidence of bonding capability shall be in the form of a letter from the surety company (or a surety agent with attorney in fact authority and an original power of attorney accompanying the letter). The surety company must be licensed to do business in the commonwealth, and its name must appear on the United States Treasury Department Circular 570).

B. Proposers that meet the minimum experience criteria set forth above and submit a completed SOQ with all Schedules and all required attachments will be evaluated on the following criteria:

- Joint experience and performance of the Proposer's Team Members contractually working together on the same team including design and construction integration/collaboration, contract management/contract modifications.
- Current and Prior Experience/Performance of firms or key personnel with Design–Build and/or Design-Bid-Build projects including MassDOT (or similar public sector owner or agency) performance evaluation of the design professional's or construction entity's involvement in projects of similar or comparable scle, scope and complexity.
- Similar type work experience for Complex Bridge construction, including work in navigable waterways and on limited access Highways.
- Current workload of the Proposers
- Experience of Key Personnel to be assigned to the Project
- Financial Status
- Litigation and Performance/Termination History

- Safety Record
- Quality of performance on relevant prior projects (Quality Control procedures in design and construction)
- Quality of performance on current Projects
- Previous experience in developing innovative/accelerated project designs, accelerated construction technologies, and construction methods of a type similar to this scope.
- Previous experience with Complex Bridge Design and Construction including precast concrete elements
- Previous experience with Complex Roadway Design and Construction
- Previous experience working along limited access highway
- Successful implementation of complex Traffic Management Plans
- Previous experience with environmental permitting, compliance and collaborating with environmental regulatory agencies in the final design of highway projects
- Previous experience working in waterways
- Prior experience with early action design, procurement, and fabrication to meet accelerated schedules.
- Demonstrated ability to provide innovative design
- Past performance in reducing project schedule durations
- Past experience with hazardous materials assessment and remediation
- Reference Information, including banks, previous clients, and sureties.
- Bonding capacity
- Experience in Public Outreach
- Prevailing Wage Violations
- Other factors that the Selection Committee determines

MassDOT will place higher values on projects which provided particularly difficult or unique challenges and innovative methods the Proposer used to resolve problems successfully. MassDOT's evaluation is not limited to past performance information on cited example projects. Past performance information related to the applicable projects submitted for experience may be afforded more importance than other sources of past performance information on projects.

As provided by law, MassDOT's decision on qualifications shall be final and binding and shall not be subject to appeal except on grounds of fraud or collusion.

All SOQs received from Proposers will be reviewed and evaluated by a Selection Committee of qualified personnel. The evaluations shall specify in writing:

- For each evaluation criterion, a rating of each response as highly advantageous, advantageous, or unacceptable, and the reasons for the rating.
- A composite rating for each SOQ using said ratings as highly advantageous, advantageous, or unacceptable, and the reasons for said composite rating.

MassDOT will investigate and verify all information received. All financial information, trade secrets or other information customarily regarded as confidential business information shall not be deemed to be public information and shall remain confidential to the extent permissible under current law.

Design-Builders achieving a composite rating of highly advantageous or advantageous may be eligible to receive an RFP in Phase 2 of the two-phase selection process. MassDOT anticipates developing a short list of no less than two and no more than five Design-Builders who will receive an RFP. This short list of most qualified Design-Builders will be determined by the SOQ rankings by total composite scores achieved using the criteria identified in the RFQ. If MassDOT fails to identify at least two Design-Builders who qualify to receive an RFP, MassDOT shall re-advertise the Project and renew the RFQ process.

In addition, reference checks will be performed, and the information made available to the Selection Committee. MassDOT reserves the right to contact MassDOT staff who may have experience working with the Proposer. Further, MassDOT may utilize performance evaluations done for Proposer.

5.2 RIGHTS OF MASSDOT IN EVALUATING SOQS

MassDOT reserves the right to:

- Consider any source of information in evaluating SOQs;
- Request additional information to clarify or supplement information contained in SOQs;
- Omit any planned evaluation step if, in MassDOT's view, the step is not needed;
- At its sole discretion, reject any and all SOQs at any time.
- Waive discrepancies and informalities in the SOQs.

5.3 STIPEND

There is no stipend for Proposers for Phase 1 of this Procurement.

MassDOT intends to award a stipend for Phase 2 of this Procurement estimated at Two Hundred and Ten thousand dollars ($210,000.00) to each unsuccessful Proposer that submits a responsive Technical Proposal and a Price Proposal that conform to the requirements of the RFP, as determined solely by MassDOT, in accordance with M.G.L. c. 149A, sec. 19, subject to the Terms and Provisions set forth in the Stipend Agreement to be provided with the RFP. Upon payment of the stipend, MassDOT may use ideas, designs, means, and/or methods contained in the non-successful proposals in connection with any contract awarded for the Project or in connection with a subsequent procurement without any obligation to pay any additional compensation to the unsuccessful Proposers in accordance with M.G.L. c. 149A, sec. 19.

5.4 PROJECT LABOR AGREEMENT

As a condition precedent to award of the contract, the Design-Builder selected to complete the Project will be required to execute a Project Labor Agreement (the "PLA") with the Building and Construction Trades Council of the Metropolitan District for its affiliated Local Unions, and the New England Regional Council of Carpenters with respect to the construction work on or connected to the Bridge Replacement, Route 3 (NB & SB) over North River Design-Build Project.

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STATEMENT OF QUALIFICATIONS SUBMISSION CHECKLIST

for Prequalification of Design-Build Firms

PLEASE NOTE THAT INCOMPLETE OR LATE STATEMENTS OF QUALIFICATION FOR DESIGN-BUILD PREQUALIFICATION WILL NOT BE CONSIDERED. THEREFORE, BEFORE SUBMITTING YOUR FIRM'S RESPONSE TO THIS RFQ PLEASE REVIEW THE FOLLOWING:

____ Proposer has completed Sections 1 – 3 of the SOQ in compliance with the page limitations.

____ Proposer has completed Section 4, Schedules *A through D* and attached required documentation.

____ Proposer has executed and included the Transmittal Form attached to this SOQ.

____ Proposer has provided current contact information for its firm and all of its project contacts/references.

____ Proposer's submission package includes one electronically signed digital file in a searchable PDF format of the SOQ, including all required attachments. All Appendices shall be separate searchable PDF format files.

____ Proposer has provided evidence of A&E Board Prequalification

____ Proposer has provided evidence of Construction Contractor Prequalification

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DESIGN-BUILD STATEMENT OF QUALIFICATIONS TRANSMITTAL FORM

Proposer _____

Mailing Address: _____

_____

Street Address (if different from mailing address):

_____

Telephone Number: _____ Fax Number: _____

Contact Person: _____ Title: _____ Email: _____

Proposer acknowledges Addenda numbered _____

(list all)

Provide three client references below include name of reference, current contact person, telephone number and address:

_____

_____

_____

Provide two bank references below, include name of reference, current contact person, telephone number and address:

_____

_____

Failure to accurately and completely provide the information requested may result in the disqualification of a Proposer.

Design-Build Statement of Qualifications Transmittal Form Page 2

*This form **MUST** be signed by an officer of the Design-Builder or an individual so authorized by an officer of the Design-Builder who has personal knowledge regarding the information contained herein and submitted with the SOQ.*

The undersigned declares that he or she is authorized on behalf of the Design-Builder to (1) respond to requests for additional information and (2) negotiate and execute a contract with MassDOT for the Project.

The undersigned declares that he or she carefully examined all the documents contained and referenced in the Design-Build Request for Qualifications (RFQ) solicitation for NORWELL-PEMBROKE-MARSHFIELD: Bridge Replacement, N-24-004=P-05-008, Route 3 (NB & SB) over North River, Design-Build Project No. 607349 of his/her knowledge, that this Statement of Qualifications fully complies with all of the requirements of the RFQ and all addenda and clarifications issued in regard to the RFQ.

The undersigned further certifies that no person acting for, or employed by, the Commonwealth of Massachusetts is directly or indirectly interested in this Statement of Qualifications or any subsequent proposal, or in any contract which may be made under it, or in expected profits to arise there from; that the undersigned Design-Builder has not influenced or attempted to influence any person or corporation other than a member of the Design-Builder to file a Statement of Qualifications or subsequent proposal or to refrain from doing so or to influence the terms of the Statement of Qualifications or any subsequent proposal of any other person or corporation; and that this submission is made in good faith without collusion or connection with any other person or entity applying for the same work not identified as a member of the Design-Builder Team.

The undersigned further certifies under pains and penalties of perjury that no member of the Design-Builder's Team is debarred from doing public construction work in the Commonwealth of Massachusetts under the provisions of section twenty nine F of chapter twenty nine, or any other applicable debarment provision of any other chapter of the General Laws or any rule or regulation promulgated there under, and further is not debarred from doing public construction work under any law, rule or regulation of the federal government. (See also Schedule D)

The undersigned states that this Statement of Qualifications shall remain valid for a period of twelve (12) calendar months from its submission date and thereafter until the Design-Builder withdraws it or a Contract is executed or the procurement is terminated by MassDOT, whichever occurs first.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY:

Signature: _____
(Signature of Authorized Representative)

Name: _____

Title: _____

Design-Builder Name: _____

Date: _____

SCHEDULE A – TERMINATIONS AND LEGAL PROCEEDINGS

Firm Name:_____

Design-Builder is required to complete both parts A, B, and C of Schedule A. On Part A of Schedule A, Design-Builders are required to list each and every project on which the firm was terminated or failed to complete the work within the past seven (7) years. On Part B of Schedule A, Design-Builders are required to list each and every conviction or fine incurred by the Design-Builder firm or any of its principals for violations of any state or federal law within the past seven (7) years; **and**, a complete list of any and all legal proceedings, administrative proceedings and arbitrations whether currently pending or concluded within the past five (5) years ((ten (10) years for litigation or legal proceedings that involving allegations against the firm of false claims, fraud or malpractice)) involved a construction project or a construction contract in which the Design-Builder firm was a named party. Attach additional sheets if necessary. On Part C of Schedule A, Design-Builders are required to list any outstanding compliance or other agreements which relate to the procurement or performance of any public or private construction contract which, if unfulfilled, would preclude the firm's participation in public works projects.

PART A. TERMINATIONS AND INCOMPLETE PROJECTS

PROJECT NAME & LOCATION	PROJECT OWNER	SCOPE OF WORK PERFORMED	PROJECT START & END DATES	ESTIMATED CONTRACT AMOUNT	% COMPLETE	REASON FOR FAILURE TO COMPLETE OR TERMINATION

SCHEDULE A - TERMINATIONS AND LEGAL PROCEEDINGS (Continued)

Firm Name:_____

PART B. LEGAL PROCEEDINGS, CONVICTIONS AND FINES

PROJECT NAME, LOCATION & OWNER	DESCRIPTION OF CONVICTIONS, FINES and LEGAL PROCEEDINGS (including administrative proceedings and arbitrations which relate to the procurement or performance of any public or private construction contract or prevailing wage violations for the past five years(ten years for litigation and legal proceedings involving allegations against the firm of false claims, fraud or malpractice); include caption of case, parties, location of proceeding, description of the dispute or enforcement action, dates action commenced and concluded and status and/or outcome)

SCHEDULE A - TERMINATIONS AND LEGAL PROCEEDINGS (Continued)

Firm Name:_____

PART C. AGREEMENTS

PROJECT NAME, LOCATION & OWNER	Description of outstanding compliance or other agreements which relate to the procurement or performance of any public or private construction contract which, if unfulfilled, would preclude the firm's participation in public works projects. List all applicable agreements, including any settlement or compliance agreements involving construction work or public contracting in Massachusetts. Include detailed status of the firm's compliance to date. Include copies of any compliance agreements and any materials generated under existing compliance agreements. Include a full description of any mitigation measures undertaken to respond to issues identified in such agreements, including revised accounting procedures, enhanced procedures for employees reporting of ethical or financial concerns etc.

SCHEDULE B – SAFETY RECORD

Each Major Participant must list its workers compensation experience modifiers for the past three (3) years and **must also attach here documentation from its insurance carrier** of its Worker's Compensation Experience Modifier for the past three years.

YEAR	WORKER COMPENSATION EXPERIENCE MODIFIER

SCHEDULE C – LETTER EVIDENCING BONDING CAPACITY

The Design-Builder must attach here a letter from a surety company (or from an agent meeting the criteria set forth above) evidencing that the surety will provide Design-Builder with payment and performance bonds for the Project in an amount equal to or greater than 100% of the estimated construction cost of the Project. The surety company must meet the requirements set forth above.

SCHEDULE D – CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

(A)

(1) The undersigned firm certifies to the best of its knowledge and belief, that-

(i) The firm and /or any of its principals:

(a) ☐ **Are** ☐ **Are not** presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

(b) ☐ **Have** ☐ **Have not** within a ten year period preceding this date, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(c) ☐ **Are** ☐ **Are not** presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (A)(1)(i)(b) of this provision.

(ii) The undersigned firm ☐ **has** ☐ **has not**, within a seven-year period preceding this date, had one or more contracts terminated by default by any Federal, state or local agency.

(2) "Principals", for the purposes of this certification, means officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This certification concerns a matter within the jurisdiction of an agency of the Commonwealth of Massachusetts and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under M.G.L. c. 266, ss. 67A and 67B; and M.G.L. c. 12, ss. 5A-5O.

(B) The undersigned shall provide immediate notice to MassDOT if, at any time prior to the award of a contract the undersigned learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(C) A certification that any of the items in paragraph (A) of this provision exists will not necessarily result in the withholding of prequalification or a contract award. However, the certification will be considered in connection with a determination of the firm's responsibility. Failure of the undersigned to furnish a certification or provide such additional information as requested by MassDOT may render the firm, or the firm's bid, non-responsive.

SCHEDULE D (Continued)

(D) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (A) of this provision. The knowledge and information of the undersigned is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(E) The certification in paragraph (A) of this provision is a material representation of fact upon which reliance will be placed in the prequalification process and in making future contract awards. If it is later determined that the undersigned knowingly rendered an erroneous certification, in addition to other remedies available to MassDOT, MassDOT may terminate the firm's prequalification status and terminate any contracts with the firm for default.

I hereby certify that the above information is true, correct, and complete.

_____
Company Name

_____ _____
Typed/Printed Name of Authorized Representative Authorized Representative Title

_____
Authorized Representative Signature Date

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APPENDIX A: TERMS AND DEFINITIONS

The following terms and definitions apply to this RFQ and any resulting contract.

A.1 TERMS

American Association of State Highway and Transportation Officials	AASHTO
Accelerated Bridge Construction	ABC
Best Value Design-Build	BVDB
Bordering Vegetated Wetlands	BVW
Code of Massachusetts Regulations	CMR
Compact Disc	CD
Construction Engineering Inspection	CEI
Critical Path Method	CPM
Department of Environmental Protection	DEP
Design–Build	DB
Digital Video Disk	DVD
Federal Highway Administration	FHWA
Letters of Interest	LOI
Load Resistance Factor Design	LRFD
Massachusetts Department of Transportation	MassDOT
Manual on Uniform Traffic Control Devices	MUTCD
National Highway System	NHS
Project Engineer	PE
Project Manager	PM
Request for Proposal	RFP
Request for Qualifications	RFQ
Statement of Qualifications	SOQ
Temporary Traffic Control Plan	TTCP
United States Department of Transportation	USDOT

A.2 DEFINITIONS

Acceptance
Acceptance shall mean all factors used by MassDOT to evaluate the degree of compliance with contract requirements and to determine the corresponding value for a given product. Acceptance activities for

Design include reviews of plans, specifications, and other documents prepared by the DB. Construction Acceptance activities include sampling, testing, and inspection of DB Work.

Acceptance Limit
Acceptance Limit shall mean the limiting upper or lower value, placed on a Quality Measure that will permit acceptance of a Lot. [While the test values for material samples are evaluated with Specification Limits and Engineering Limits, the computed quality level for a specific Quality Measure is evaluated against the Acceptance Limit. For example, the minimum allowable PWL called out in a QA Specification might be 65PWL. This is the Acceptance Limit.]

Acceptance Sampling & Testing
Also called *Verification sampling and testing*. Acceptance Sampling & Testing shall mean sampling and testing performed by MassDOT, or its Designated Agent, to measure the quality of the final product. Acceptance Sampling & Testing is performed on material entering the DB Work, whether on-site or off-site, to determine compliance with the requirements of the Contract Documents. Such sampling and testing are a factor in MassDOT's acceptance or rejection of the DB Work.

Accredited Laboratories
Accredited Laboratories are laboratories which are recognized by a formal accrediting body as meeting quality system requirements including demonstrated competence to perform standard test procedures.

Addenda
Addenda are revisions, substitutions, or clarifications to the RFQ/RFP.

Advertisement
Advertisement shall mean the publishing of a Design-Build project similar to advertisement for professional services currently used by MassDOT. The advertisement shall appear in the Central Register, COMMBUYS, and shall be advertised in a newspaper of general circulation in the area (town or city) in which the Project is located or to be located.

Amended Memorandum of Agreement (MOA)
Amended Memorandum of Agreement represents the revised document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties when an undertaking and its effects on historic properties have changed substantially after an MOA has been executed.

As-Built Documents
As-Built Documents shall mean the documents provided by the Design-Builder to MassDOT at the conclusion of the construction Project.

Best Value Design-Build (BVDB)
Best Value Design-Build is a two-phase selection process in which the first phase consists of creating a short list of qualified Design-Builders as determined by responses to a Request for Qualifications package. The second phase consists of the submission of technical and price proposals in response to the Request for Proposals.

Business Day
Business Day shall mean days on which MassDOT is officially open for business.

Calendar Day
Day shall mean Calendar Day unless otherwise specified. If the date to perform any act or give any notice specified in the Contract Documents falls on a non-Business Day, such act or notice may be timely performed on the next succeeding Business Day. Notwithstanding the foregoing, requirements contained in the Contract Documents relating to actions to be taken in the event of an emergency and other requirements for which it is clear that performance is intended to occur on a non-Business Day, shall be required to be performed as specified, even though the date in question may be a non-Business Day.

Contracting Unit
Contracting Unit is the unit within MassDOT that has been given the responsibility of procuring Design-Build contracts.

Construction Engineering Inspection Services (CEI)
Construction Engineering Inspection Services are the construction engineering services being required of the Design-Builder. Services may include construction inspection, off-site plant inspection, materials sampling and testing, surveying, and other Quality Control functions as specified for the particular project.

COMMBUYS
The Commonwealth of Massachusetts' Market Center, which is a replacement for Comm-PASS (effective March 2014) and which provides advanced technology, including requisition, solicitation, online bidding, catalog enablement and online ordering.

Construction Organization Chart
Construction Organization Chart is a chart that shows relationships between functions and the functional relationships with Subcontractors. This chart indicates how the Design-Builder intends to divide the Project into work segments to minimize impacts on the traveling public and enable optimum construction performance.

Contract Document
Contract Document shall mean the Agreement including any attached exhibits, amendments and addenda, excluding the Reference Documents.

Contractor
Contractor shall mean all contracted parties who are involved with building a DB Project, including; the Prime (General) Contractor, Subcontractors, and all Producers, Fabricators, and Manufacturers who provide construction materials for the Project.

DB Price
DB Price shall mean the price set forth by the Design-Build Contract Documents.

DB Work
Design-Build Work shall consists of the work required under the Agreement including all administrative, design, engineering, real property acquisition and occupant relocation, support services, Utility Relocation, procurement, professional, manufacturing, supply, installation, construction, supervision, management, testing, verification, labor, materials, equipment, maintenance, documentation, and other duties and services to be furnished and provided by the Design-Builder as required by the Contract Documents, including all efforts necessary or appropriate to achieve Final Acceptance except for those efforts which such Contract Documents specify will be performed by Persons other than the Design-Builder.

Department
Department is the Massachusetts Department of Transportation, or MassDOT.

Design-Build (DB)
Design-Build is a construction delivery system that provides responsibility for the delivery of design services and construction services within a single contract.

Design-Builder
Design-Builder shall mean Design-Build Entity, an individual, sole proprietorship, firm, partnership, joint venture, corporation, or other entity that provides Design-Build services.

Design Documents
Design Documents shall mean all drawings (including plans, elevations, sections, details and diagrams), specifications, reports, calculations, records, and submittals necessary for design of the Project in accordance with the Contract Documents.

Design Exception
Design Exception shall be defined as set forth in MassDOT's Project Development and Design Guide Book.

Design Professional
Design Professional shall have the same meaning as "firm" as defined in M.G.L. Chapter 7C, Section 58 of which can be an individual, firm, partnership, corporation, association or other legal entity authorized by law to practice the professions of architecture, engineering, land surveying, landscaping architecture, environmental science, planning or program management who will provide technical advice and professional expertise on the Project.

eSignature
Electronic signature or eSignature – pursuant to M.G.L. c. 110G, §2, "an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record."

Engineer
Engineer shall mean the Chief Engineer of MassDOT acting directly or through an authorized representative, such representative acting within the scope of the particular duties entrusted to him.

Environmental Approvals
Environmental Approvals shall mean any Governmental Approval and amendment or modification thereto, arising from or required by Environmental Law.

Environmental Clearances
Environmental Clearances means that an undertaking has been reviewed under Section 106, the undertaking's effects (if any) on historic properties have been taken into consideration, and the Section 106 review process for the undertaking has been completed.

Environmental Law
Environmental Law shall mean any Law that regulates or governs the use, storage, handling, treatment, recycling, transportation, or disposal of Hazardous Material or pollution or protection of human health, safety, and the environment, including, but not limited to:

1) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq.;
2) the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq.;
3) the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.;
4) the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.;
5) the Clean Water Act, 33 U.S.C. Section 1251 et seq.;
6) the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and
7) any analogous state statutes including Mass. Gen. Law c. 21 C and 21 E, all as amended or as they may be amended from time to time and its enacting regulation 310 CMR 40.0000, the Massachusetts Contingency Plan.

The term "Environmental Law" shall not include the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.

Hazardous Materials
Hazardous Materials shall mean:

1) any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to any Environmental Law as now or at any time hereafter in effect;
2) any substance, product, waste or other material of any nature whatsoever which may give rise to liability, investigation, remediation or corrective action requirements under any Environmental Law;
3) oil and petroleum derivatives;
4) asbestos;
5) lead and lead paint; and
6) radioactive wastes and substances.

Key Personnel
Individuals who will have major contract responsibilities and/or provide unusual or unique expertise. At a minimum, the key personnel identified shall include the Design-Builder Project Manager, Quality Control Administrator, Design Quality Control Manager, Design Manager, Lead Structural Engineer, Lead Roadway Engineer, Lead Geotechnical Engineer, Construction Manager, Construction Quality Control Manager, Construction Superintendent, and Environmental Compliance Manager (Construction).

Key Project Team Member
Firms that shall be prequalified as described herein, and shall at a minimum include any Design-Builder Team Member performing Architectural and Engineering services for design and/or construction phase services for the Bridge, Geotechnical, Roadway, and Traffic.

Letter of Interest
Letter of Interest is the information provided by the interested Design-Builders in response to a project advertisement. A Proposer desiring to be considered for a Design-Build project shall submit a Letter of Interest and provide the information required in the advertisement of the Project.

Major Participants
Major Participant shall mean any of the following entities:

a. All general partners or joint venture members of the Design-Builder.
b. All Persons holding (directly or indirectly) a 15% or greater interest in the Design-Builder
c. The lead engineering / design firm(s) (i.e., individual firms, partnerships, or joint ventures) as well as each engineering/design subconsultant (i.e., individual firms, partnerships, or joint ventures) that will perform 20% or more of the engineering/design DB Work.
d. The team member that would have a major role in the design and construction of the Project as specified in the RFQ

Memorandum of Agreement
Memorandum of Agreement shall represent the document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties.

Non-Responsive
Non-Responsive refers to any submission that does not meet the criteria identified in the RFQ or any Technical Proposal that does not comply with the criteria defined in the RFP.

Prequalification
Prequalification is the process used to identify Design-Builders that meet certain criteria necessary to advance to the RFP stage of the selection process. The Architects and Engineers Review Board and the Construction Prequalification Committee shall be jointly responsible for determining the prequalification status of each Proposer using information provided in LOIs, SOQs, and on file from other MassDOT prequalification procedures, or from other appropriate sources as necessary.

Price Proposal
The Proposer's cost for all design, construction, construction engineering, and Quality Control inspection, sampling and testing, as required, and any warranties required.

Project
The word "Project" shall mean the full scope of work for the design and construction of the Project as described in the public advertisement for the Project completed in conjunction with all terms and conditions of the Contract Documents.

Project Manager (PM)
Project Manager is the MassDOT's designee responsible for the administration of the Design-Build Project.

Proposer
Proposer shall mean the prospective Design-Builder.

Quality
Quality is (1) The degree of excellence of a product or service; (2) The degree to which a product or service satisfies the needs of a specific customer; (3) The degree to which a product or service conforms to a given requirement; or (4) Conformance to requirements.

Quality Assurance
Quality Assurance (QA) shall mean (1) All those planned and systematic actions necessary to provide confidence that a product or facility will perform satisfactorily in service; or (2) Making sure the quality of a product is what it should be. QA includes Quality Control performed by the Design-Builder, Acceptance activities performed by MassDOT (or their Designated Agent), Independent Assurance, Dispute Resolution, Laboratory Accreditation and Qualification, and Personnel Qualification/Certification.

Quality Assurance Program
Quality Assurance Program shall mean the core programmatic elements required for Design Quality Assurance implementation and Construction Quality Assurance implementation.

Quality Characteristic
Quality Characteristic is a product characteristic that is measured through testing, either for Quality Control (QC) purposes or for conformance with Acceptance requirements. [Quality Characteristics are specific material properties or product requirements which are evaluated by QC and Acceptance testing. Quality Characteristics which are specified are normally selected because they: a) Relate to initial and long-term performance; b) Are quantifiable or measurable; and c) Can be measured with good repeatability.]

Quality Control
Quality Control (QC) shall mean the system used by the Design-Builder to monitor, assess and adjust their production or placement processes to ensure that the final product will meet the specified level of quality. [Quality Control includes review and checking of design and construction documents, sampling, testing, inspection, evaluation, and corrective action (where required) to maintain continuous control of a production or placement process.]

Quality Control Plan
Quality Control (QC) Plan shall mean a project specific document prepared by the Design-Builder which identifies all Construction QC personnel and procedures that will be used to maintain all production and placement processes "in control" and meet the specification requirements for an individual Work Item in the Proposer's Price Proposal.

Quality Limits
Quality Limits are the upper or lower limiting values provided in the specifications that are used to evaluate the acceptability of materials produced or placed. [There are three types of Quality Limits that are typically included in QA Specifications. They include: Specification Limits, Engineering Limits, and Acceptance Limits. Each type of Quality Limit serves a different specific function in assessing the Quality of a product or work item. Quality Limits are used together to determine the quality of an individual Quality Characteristic.]

Quality Measure
Quality Measure is any one of several mathematical tools that are used to quantify the level of quality of an individual Quality Characteristic. [Application of a Quality Measure to a set of testing data provides an overall numeric representation of Quality for a specific Quality Characteristic. Typical Quality Measures used in Quality Assurance are selected because they quantify the average quality, the variability, or both. Examples of Quality Measures that may be used include; Mean, Standard Deviation, Percent Defective (PD), Percent Within Limits (PWL), Average Absolute Deviation (AAD), Moving Average, and Conformal Index (CI). PWL or PD are the Quality Measures that are recommended for use in Quality Assurance Specifications.]

Request For Proposal
Request for Proposal (RFP) is the document issued by MassDOT to solicit proposals from pre-qualified Design-Builders for the purpose of entering into a Design-Build Contract and includes all attachments hereto and subsequent addenda.

Request for Qualifications
Request for Qualifications (RFQ) is the document issued by MassDOT for the purpose of creating a short list of qualified Design-Builders to respond to an RFP issued by MassDOT.

Responsive Proposal
Responsive Proposal is one submitted by a person, corporation, or other organization that is a Design-Builder, which has the capability to perform the requirements of the Design-Build Contract, has the integrity and reliability to assure good faith performance, and meets the qualifications component of the RFP.

Sampling
Sampling is the process of selecting one or more samples from a population. [Sampling is an integral part of Contractor Quality Control, as well as Agency Acceptance. Sampling procedures should be established and applied for both inspection and testing activities. An effective sampling system delineates a Population according to measurable segments. The key elements of a sampling system include; Lots, Statistical Samples, Sublots, and samples.]

Selection Committee
The Selection Committee is established by MassDOT and reviews Proposals and recommends selection of best-value Proposals. The Selection Committee may also receive assistance from any sub-committees that evaluate the Technical and/or Price Proposals as needed.

Standard Specifications
Standard Specifications shall mean the Department of Transportation 2024 Standard Specifications for Highways and Bridges, for purposes of the Contract Documents.

Subcontract
Means any agreement by the Design-Builder with any other Person to perform any part of the DB Work or provide any materials, equipment, or supplies for any part of the DB Work.

Subcontractor
Subcontractor shall mean any Person with whom the Design-Builder has entered into any subcontract to perform any part of the DB Work or provide any materials, equipment, or supplies for the Project on behalf of the Design-Builder.

Technical Proposal
Technical Proposals contain three major sections: a management summary, comprehensive technical approach, and a project summary schedule using Primavera, MS Project, or equivalent. The package shall clearly indicate that it is the Technical Proposal and shall clearly identify the Proposer name, project description, or any other information required. Refer to Section 3.3 of the Instructions to Proposers issued during the RFP phase of the Design-Build Procurement for procedures on Technical Proposal format and organization.

Statement of Qualifications
The Statement of Qualifications (SOQ) is the complete package received from a Proposer in response to MassDOT's Request for Qualification (RFQ).

Temporary Traffic Control Plan
Temporary Traffic Control Plan is a plan developed by the Design-Builder showing the temporary traffic control throughout the duration of the Project.

Two-Phase Selection Process
Two-Phase Selection Process a procurement process in which the first phase consists of creating a short list of qualified Design-Builders as determined by responses to a Request for Qualifications (RFQ). The second phase consists of the submission of Technical and Price Proposals in response to a Request for Proposals (RFP).

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APPENDIX B: A&E BOARD PRE-QUALIFICATION DOCUMENTS

The following documents, instructions, and forms required for MassDOT Architects and Engineers Review Board Prequalification are available at:

https://www.mass.gov/prequalification-of-architectural-engineering-firms

- Prequalification Form
- Instructions for Completing Form
- Prequalification Category Definitions
- Audit Overhead Guidelines

APPENDIX C: MASSDOT CONTRACTOR PREQUALIFICATION DOCUMENTS

The following documents, instructions, and forms required for MassDOT Contractor Prequalification are available at:

https://www.mass.gov/prequalification-of-horizontal-construction-firms

- Prequalification for Statewide Engineering Services
- Definitions of Classes of Work
- Application for Prequalification
- Request for Official Proposal Form

APPENDIX D: MASSDOT DISCLOSURE FORM ORGANIZATIONAL CONFLICTS OF INTEREST

This Form will be used by MassDOT to assist in the Determination as to whether an organizational conflict of interest exists with respect to an entity and whether the conflict would result in that entity being precluded from being a Participant in the Contractor Procurement or whether any conflict could be waived, avoided, neutralized, or mitigated. Capitalized terms shall have the same meaning as set forth in MassDOT's Organizational Conflict of Interest Guidance, NORWELL-PEMBROKE-MARSHFIELD: Bridge Replacement, N-24-004=P-05-008, Route 3 (NB & SB) over North River, Design-Build Project No. 607349 ("the Project"). This Form may be supplemented with additional materials as necessary to fully and completely respond to the issues that are presented. The Form may be copied and reproduced as necessary. All information submitted to MassDOT is submitted under penalty of perjury and will be considered a public record unless it is specifically exempted from disclosure under Federal or state law.

1. Name of entity: _____

2. Proposed role on the Project:

_____

_____

_____

_____

3. Prior experience on the Project including feasibility study, master plan, program or any development or preliminary design (be as specific as possible): If so, are there reasons in the public interest that the entity should not be precluded from further participation on the Project? Explain.

_____

_____

_____

_____

_____

4. Does the entity or did the entity have a contract with MassDOT for the Project? If yes, please identify the contract.

_____

_____

_____

_____

MassDOT Disclosure Form Organizational Conflicts of Interest (Continued)

5. Is the entity or was the entity a subcontractor or subconsultant to an organization that has or had a contract with MassDOT for the Project? Identify the organization(s) and the MassDOT contract(s).

6. Is there any reason that the entity is or might be unable, or potentially unable, to provide impartial and objective assistance or advice to MassDOT due to other activities, interests, relationships, contracts, or circumstances? Explain.

7. To the best of the entity's knowledge, after diligent inquiry, are any of its directors, officers, owners, or employees unable, or potentially unable, to provide impartial and objective assistance or advice to MassDOT due to other activities, interests, relationships, contracts, or circumstances? Explain.

8. Is the entity aware of any information in its possession related to the Project as a result of previous involvement in the Project that is not generally available to the public? Explain.

MassDOT Disclosure Form Organizational Conflicts of Interest (Continued)

9. Has the entity established or been involved in the establishment of the ground rules for the Design-Build procurement for the Project by developing specifications, requirements, statements of work, invitations for bids, requests for proposals, evaluation factors, or similar documents? Explain.

10. If the answers to any of the previous four (4) questions is yes, does the entity have a recommendation on how an organizational conflict of interest or potential organizational conflict of interest involving the entity can be avoided, neutralized, or mitigated? Explain.

11. For the purposes of compliance with Mass. Gen. L. c. 149A, s. 18, has the entity been retained as a "design professional" to provide technical assistance and consulting services on the Project? Explain.

12. Is the entity or any employee of the entity a "state employee" pursuant to the definition provided in section 1(q) of Mass. Gen. L. c. 268A?

    To the extent that the entity or any employees of the entity are or may be considered "state employees" for the purposes of Mass. Gen. L. c. 268A, the State Ethics Commission should be consulted to determine how their involvement in the Project may present a conflict of interest. To the extent that the entity and the individual are willing to share any information from the State Ethics Commission, please voluntarily provide that as an attachment to this Form. It is not a requirement.

13. Has any employee of the entity worked on the Project for an entity that has been determined to have a conflict of interest? Did that employee participate in a material way in the performance of the work giving rise to that determination? Explain.

14. A "parent" as used herein is an organization that controls the entity through, for example, the ownership of stock or the exercise of management control. Has any parent of the entity been involved in the Project? If yes, identify the parent(s).

15. If the answer to the preceding question is "yes", please supplement the entity's response by explaining the parent's role in the Project and informing MassDOT whether the entity's answer to any question should be modified as a result of that role.

16. An "affiliate" as used herein is an organization that is officially connected to or attached to the entity. Has any affiliate of the entity been involved in the Project? If yes, identify the affiliate(s).

MassDOT Disclosure Form Organizational Conflicts of Interest (Continued)

17. If the answer to the preceding question is "yes", please supplement the entity's response by explaining the affiliate's role in the Project and informing MassDOT whether the entity's answer to any question should be modified as a result of that role.

18. A "subsidiary" as used herein is an organization that is controlled by the entity through, for example, the ownership or stock or the exercise of management control. Has any subsidiary of the entity been involved in the Project? If yes, identify the subsidiary(ies).

19. If the answer to the preceding question is "yes", please supplement the entity's response by explaining the subsidiary's role in Project and informing MassDOT whether the entity's answer to any question should be modified as a result of that role.

20. Please provide any information regarding whether any organizational conflict of interest or potential organizational conflict of interest involving the entity is of an indirect, remote or "de minimus" nature and/or whether there are sound reasons in the public interest that would allow a conflict of interest to be waived or mitigated.

MassDOT Disclosure Form Organizational Conflicts of Interest (Continued)

The entity certifies that it has conducted a diligent inquiry and search to ascertain the full extent of its knowledge with respect to its involvement with the Project and that all of the answers provided in this Form are made truthfully, to the best of the entity's knowledge and belief and that no interest exists that is required to be disclosed on this Form, other than as described above. The entity further certifies that should it obtain knowledge: (a) that is inconsistent with the answers provided in this Form; or (b) of any set of facts potentially giving rise to a conflict of interest under Federal or state law or MassDOT policy, it will disclose such facts to MassDOT as soon as reasonably possible.

The undersigned certifies that the undersigned is authorized to answer these questions on behalf of the entity and to bind the entity (please attach evidence of authority).

Signed under the penalties of perjury on this _____ of _____, 2026.

ENTITY NAME _____

NAME _____
duly authorized

Email address: _____

*** END OF DOCUMENT ***

APPENDIX E: STATE AND FEDERAL DOCUMENTS

The documents listed below are provided "FOR INFORMATION ONLY".

The following documents are required for federally and/or state funded projects:

- DOCUMENT 00760 FHWA-1273 REQUIRED CONTRACT PROVISIONS FOR FEDERAL-AID CONSTRUCTION CONTRACTS
- DOCUMENT 00820 THE COMMONWEALTH OF MASSACHUSETTS SUPPLEMENTAL EQUAL EMPLOYMENT OPPORTUNITY, NON-DISCRIMINATION AND AFFIRMATIVE ACTION PROGRAM
- DOCUMENT 00821 ELECTRONIC REPORTING REQUIREMENTS CIVIL RIGHTS PROGRAMS AND CERTIFIED PAYROLL
- DOCUMENT 00859 CONTRACTOR/SUBCONTRACTOR CERTIFICATION FORM
- DOCUMENT 00860 COMMONWEALTH OF MASSACHUSETTS PUBLIC EMPLOYMENT LAWS
- DOCUMENT 00870 STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

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DOCUMENT 00760

FHWA-1273 – Revised October 23, 2023

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Non-segregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
XI. Certification Regarding Use of Contract Funds for Lobbying
XII. Use of United States-Flag Vessels:

ATTACHMENTS

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

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

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

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

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

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

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

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

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

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

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

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

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

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

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

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

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

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

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

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

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

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

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

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

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

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

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

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

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

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

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

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

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

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

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

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

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

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:
(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

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

a. The records kept by the contractor shall document the following:

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

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

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

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

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than $10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH–1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

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

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

(ii) The classification is used in the area by the construction industry; and

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

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements* (1) *Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.,* the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH–347 or in any other format desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division website at *https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347/.pdf* or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

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

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

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

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

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

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

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

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* $31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

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

a. The term “perform work with its own organization” in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;

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

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

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

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

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of $150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

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

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1**. Instructions for Certification – First Tier Participants:**

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. “First Tier Covered Transactions” refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/). 2 CFR 180.300, 180.320, and 180.325.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

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

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

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

* * * * *

3. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

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

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, ‘on-board’ commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B) This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

DOCUMENT 00820

THE COMMONWEALTH OF MASSACHUSETTS SUPPLEMENTAL EQUAL EMPLOYMENT OPPORTUNITY, NON-DISCRIMINATION AND AFFIRMATIVE ACTION PROGRAM

I. Definitions

For purposes of this contract,

"Minority" means a person who meets one or more of the following definitions:

(a) American Indian or Native American means: all persons having origins in any of the original peoples of North America and who are recognized as an Indian by a tribe or tribal organization.
(b) Asian means: All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian sub-continent, or the Pacific Islands, including, but Not limited to China, Japan, Korea, Samoa, India, and the Philippine Islands.
(c) Black means: All persons having origins in any of the Black racial groups of Africa, including, but not limited to, African-Americans, and all persons having origins in any of the original peoples of the Cape Verdean Islands.
(d) Eskimo or Aleut means: All persons having origins in any of the peoples of Northern Canada, Greenland, Alaska, and Eastern Siberia.
(e) Hispanic means: All persons having their origins in any of the Spanish-speaking peoples of Mexico, Puerto Rico, Cuba, Central or South America, or the Caribbean Islands.

"State construction contract" means a contract for the construction, reconstruction, installation, demolition, maintenance or repair of a building or capital facility, or a contract for the construction, reconstruction, alteration, remodeling or repair of a public work undertaken by a department, agency, board, or commission of the commonwealth.

"State assisted construction contract" means a contract for the construction, reconstruction, installation, demolition, maintenance or repair of a building or capital facility undertaken by a political subdivision of the commonwealth, or two or more political subdivisions thereof, an authority, or other instrumentality and whose costs of the contract are paid for, reimbursed, grant funded, or otherwise supported, in whole or in part, by the commonwealth.

II. Equal Opportunity, Non-Discrimination and Affirmative Action

During the performance of this Contract, the Contractor and all subcontractors (hereinafter collectively referred to as "the Contractor") for a state construction contract or a state assisted construction contract, for him/herself, his/her assignees and successors in interest, agree to comply with all applicable equal employment opportunity, non-discrimination and affirmative action requirements, including but not limited to the following:

In connection with the performance of work under this contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religious creed, national origin, sex, sexual orientation, genetic information, military service, age, ancestry or disability, shall not discriminate in the selection or retention of subcontractors, and shall not discriminate in the procurement of materials and rentals of equipment.

The aforesaid provision shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment advertising, layoff or termination; rates of pay or other forms of compensation; conditions or privileges of employment; and selection for apprenticeship or on-the-job training opportunity. The Contractor shall comply with the provisions of chapter 151B of the Massachusetts General Laws, as amended, and all other applicable anti-discrimination and equal opportunity laws, all of which are herein incorporated by reference and made a part of this Contract.

The Contractor shall post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the Massachusetts Commission Against Discrimination setting forth the provisions of the Fair Employment Practices Law of the Commonwealth (Massachusetts General Laws Chapter l51 B).

In connection with the performance of work under this contract, the Contractor shall undertake, in good faith, affirmative action measures to eliminate any discriminatory barriers in the terms and conditions of employment on the grounds of race, color, religious creed, national origin, sex, sexual orientation, genetic information, military service, age, ancestry or disability. Such affirmative action measures shall entail positive and aggressive measures to ensure nondiscrimination and to promote equal opportunity in the areas of hiring, upgrading, demotion or transfer, recruitment, layoff or termination, rate of compensation, apprenticeship and on-the-job training programs. A list of positive and aggressive measures shall include, but not be limited to, advertising employment opportunities in minority and other community news media; notifying minority, women and other community-based organizations of employment opportunities; validating all job specifications, selection requirements, and tests; maintaining a file of names and addresses of each worker referred to the Contractor and what action was taken concerning such worker; and notifying the administering agency in writing when a union with whom the Contractor has a collective bargaining agreement has failed to refer a minority or woman worker. These and other affirmative action measures shall include all actions required to guarantee equal employment opportunity for all persons, regardless of race, color, religious creed, national origin, sex, sexual orientation, genetic information, military service, age, ancestry or disability. One purpose of this provision is to ensure to the fullest extent possible an adequate supply of skilled tradesmen for this and future Commonwealth public construction projects.

III. Minority and Women Workforce Participation

Pursuant to his/her obligations under the preceding section, the Contractor shall strive to achieve on this project the labor participation goals contained herein. Said participation goals shall apply in each job category on this project including but not limited to bricklayers, carpenters, cement masons, electricians, ironworkers, operating engineers and those classes of work enumerated in Section 44F of Chapter 149 of the Massachusetts General Laws. The participation goals for this project shall be 15.3% for minorities and 6.9% for women. The participation goals, as set forth herein, shall not be construed as quotas or set-asides; rather, such participation goals will be used to measure the progress of the Commonwealth's equal opportunity, non-discrimination and affirmative action program. Additionally, the participation goals contained herein should not be seen or treated as a floor or as a ceiling for the employment of particular individuals or group of individuals.

IV. Liaison Committee

At the discretion of the agency that administers the contract for the construction project there may be established for the life of the contract a body to be known as the Liaison Committee. The Liaison Committee shall be composed of one representative each from the agency or agencies administering the contract for the construction project, hereinafter called the administering agency, a representative from the Office of Affirmative action, and such other representatives as may be designated by the administering agency. The Contractor (or his/her agent, if any, designated by him/her as the on-site equal employment opportunity officer) shall recognize the Liaison Committee as an affirmative action body, and shall establish a continuing working relationship with the Liaison Committee, consulting with the Liaison Committee on all matters related to minority recruitment, referral, employment and training.

V. Reports and Records

The Contractor shall prepare projected workforce tables on a quarterly basis when required by the administering agency. These shall be broken down into projections, by week, of workers required in each trade. Copies shall be furnished one week in advance of the commencement of the period covered, and also, when updated, to the administering agency and the Liaison Committee when required.

The Contractor shall prepare weekly reports in a form approved by the administering agency, unless information required is required to be reported electronically by the administering agency, the number of hours worked in each trade by each employee, identified as woman, minority, or non-minority. Copies of these shall be provided at the end of each such week to the administering agency and the Liaison Committee.

Records of employment referral orders, prepared by the Contractor, shall be made available to the administering agency on request.

The Contractor will provide all information and reports required by the administering agency on instructions issued by the administering agency and will permit access to its facilities and any books, records, accounts and other sources of information which may be determined by the administering agency to effect the employment of personnel. This provision shall apply only to information pertinent to the Commonwealth's supplementary non-discrimination, equal opportunity and access and opportunity contract requirements. Where information required is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the administering agency and shall set forth what efforts he has made to obtain the information.

VI. Access to Work Site

A designee of the administering agency and a designee of the Liaison Committee shall each have a right to access the work site.

VII. Solicitations for Subcontracts, and for the Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the Contractor either for work to be performed under a subcontract or for the procurement of materials or equipment, each potential subcontractor or supplier shall be notified in writing by the Contractor of the Contractor's obligations under this contract relative to non-discrimination and equal opportunity.

VIII. Sanctions

Whenever the administering agency believes the General or Prime Contractor or any subcontractor may not be operating in compliance with the provisions of the Fair Employment Practices Law of the Commonwealth (Massachusetts General Laws Chapter 151B), the administering agency may refer the matter to the Massachusetts Commission Against Discrimination ("Commission") for investigation.

Following the referral of a matter by the administering agency to the Massachusetts Commission Against Discrimination, and while the matter is pending before the MCAD, the administering agency may withhold payments from contractors and subcontractors when it has documentation that the contractor or subcontractor has violated the Fair Employment Practices Law with respect to its activities on the Project, or if the administering agency determines that the contractor has materially failed to comply with its obligations and the requirements of this Section. The amount withheld shall not exceed a withhold of payment to the General or Prime Contractor of 1/100 or 1% of the contract award price or $5,000, whichever sum is greater, or, if a subcontractor is in non-compliance, a withhold by the administering agency from the General Contractor, to be assessed by the General Contractor as a charge against the subcontractor, of 1/100 or 1% of the subcontractor price, or $1,000 whichever sum is greater, for each violation of the applicable law or contract requirements. The total withheld from anyone General or Prime Contractor or subcontractor on a Project shall not exceed $20,000 overall. No withhold of payments or investigation by the Commission or its agent shall be initiated without the administering agency providing prior notice to the Contractor.

If, after investigation, the Massachusetts Commission Against Discrimination finds that a General or Prime Contractor or subcontractor, in commission of a state construction contract or state-assisted construction contract, violated the provisions of the Fair Employment Practices Law, the administering agency may convert the amount withheld as set forth above into a permanent sanction, as a permanent deduct from payments to the General or Prime Contractor or subcontractor, which sanction will be in addition to any such sanctions, fines or penalties imposed by the Massachusetts Commission Against Discrimination.

No sanction enumerated under this Section shall be imposed by the administering agency except after notice to the General or Prime Contractor or subcontractor and an adjudicatory proceeding, as that term is used, under Massachusetts General Laws Chapter 30A, has been conducted.

IX. Severability

The provisions of this section are severable, and if any of these provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

X. Contractor's Certification

After award and prior to the execution of any contract for a state construction contract or a state assisted construction contract, the Prime or General Contractor shall certify that it will comply with all provisions of this Document 00820 Supplemental Equal Employment Opportunity, Non-Discrimination and Affirmative Action Program, by executing Document 00859 Contractor/Subcontractor Certification Form.

XI. Subcontractor Requirements

Prior to the award of any subcontract for a state construction contract or a state assisted construction contract, the Prime or General Contractor shall provide all prospective subcontractors with a complete copy of this Document 00820 entitled "Supplemental Equal Employment Opportunity, Non-Discrimination and Affirmative Action Program" and will incorporate the provisions of this Document 00820 into any and all contracts or work orders for all subcontractors providing work on the Project. In order to ensure that the said subcontractor's certification becomes a part of all subcontracts under the prime contract, the Prime or General Contractor shall certify in writing to the administering agency that it has complied with the requirements as set forth in the preceeding paragraph by executing Document 00859 Contractor/Subcontractor Certification Form.

Rev'd 03/07/14

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DOCUMENT 00821

ELECTRONIC REPORTING REQUIREMENTS
CIVIL RIGHTS PROGRAMS AND CERTIFIED PAYROLL

Implemented on March 2, 2009 Revised June 04, 2019

The Massachusetts Department Of Transportation (MassDOT) has replaced the CHAMP reporting system with Equitable Business Opportunity Solution (EBO), a new web-based civil rights reporting software system. This system is capable of handling both civil rights reporting requirements and certified payrolls. The program's functions include the administration of Equal Employment Opportunity (EEO) requirements, On-The-Job Training requirements (OJT), Disadvantage Business Enterprise (DBE) and/or Minority / Women's Business Enterprise (M/WBE) subcontracting requirements, and the electronic collection of certified payrolls associated with MassDOT projects. In addition, this system is used to generate various data required as part of the American Recovery and Reinvestment Act (ARRA). Contractors are responsible for all coordination with all sub-contractors to ensure timely and accurate electronic submission of all required data.

Contractor and Sub-Contractor EBO User Certification

All contractors and sub-contractors must use the EBO software system. The software vendor, Internet Government Solutions (IGS), has developed an online EBO Training Module that is available to contractors and sub-contractors. This module is a self-tutorial which allows all users in the company to access the training, complete the tutorial, and become certified as EBO users for a one time fee of $75.00. This is the only cost to contractors and sub-contractors associated with the EBO software system. The online EBO Training Module can be accessed at www.ebotraining.com. Click the "Register My Company" button on the login page to begin your training registration. Questions regarding EBO online training should be directed to Gerry Anguilano, IGS at (440) 238-1684.

MassDOT will track contractors and sub-contractors who have successfully completed the on-line training module. All persons performing civil rights program and/or certified payroll functions should be EBO certified.

Vetting of Firms and Designated Firm Individuals

Contractors must authorize a Primary Log-In ID Holder who has completed EBO on-line training to have access to the EBO system by completing and submitting the "Request For EBO System Log-In/Password Form" located on the MassDOT website at: https://www.mass.gov/how-to/how-to-get-an-ebo-login
Contractors must also agree to comply with the EBO system user agreement located on the MassDOT website.

All subcontracts entered into on a project must include language that identifies the submission and training requirements that the sub-contractor must perform. Sub-contractors will be approved by the respective District Office of MassDOT through the existing approval process. When new sub-contractors, who have not previously worked for MassDOT, are initially selected by a general contractor, the new sub-contractor must be approved by the District before taking the EBO on-line training module.

Interim Reporting Requirements

Until MassDOT is satisfied that the EBO system is fully operational and functioning as designed, contractors and sub-contractors will be required to submit certified payrolls manually. There will be a transition period where dual reporting, through manual and electronic submission, will be required. MassDOT, however, will notify contractors and sub-contractors when they may cease manual submission of certified payrolls.

*** END OF DOCUMENT ***

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DOCUMENT 00859

CONTRACTOR/SUBCONTRACTOR CERTIFICATION FORM ‡

The contractor shall submit this completed document 00859 to MassDOT for each subcontract.

_____ **(Contractor)** **Date:**_____

_____**(Subcontractor)** ☐ District Approved Subcontractor

Contract No:_____ **Project No.** 607349 **Federal Aid No.:**_____

Location: Norwell-Pembroke- Marshfield

Project Description: Bridge Replacement Br. No. N-24-004=P-05-008, Route 3 (NB & SB) over North River
Design-Build Project

PART 1 CONTRACTOR CERTIFICATION: I hereby certify, as an authorized official of this company, that to the best of my knowledge, information and belief, the company is in compliance with all applicable federal and state laws, rules, and regulations governing fair labor and employment practices, that the company will not discriminate in their employment practices, that the company will make good faith efforts to comply with the minority employee and women employee workforce participation ratio goals and specific affirmative action steps contained in Contract Document 00820 The Commonwealth of Massachusetts Supplemental Equal Employment Opportunity, Non-Discrimination and Affirmative Action Program, and that the company will comply with the special provisions and documentation indicated below (as checked).

I further hereby certify, as an authorized official of this company, that the special provisions and documentation indicated below (as checked) have been or are included in, and made part of, the Subcontractor Agreement entered into with the firm named above.

☐ **This is not a Federally-aided construction project**

Document #

☐ 00718 –Participation By Minority Or Women's Business Enterprises and SDVOBE†
☐ 00761 –Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion
☐ 00820 – MA Supplemental Equal Employment Opportunity, Non-Discrimination, and Affirmative Action Program
☐ 00821 – Electronic Reporting Requirements, Civil Rights Programs, and Certified Payroll
☐ 00859 – Contractor/Subcontractor Certification Form (this document)
☐ 00860 – MA Employment Laws
☐ 00861 – Applicable State Wage Rates in the Contract Proposal**
☐ B00842 – MA Schedule of Participation By Minority or Women Business Enterprises (M/WBEs)†
☐ B00843 – MA Letter of Intent – M/WBEs†

** Does not apply to Material Suppliers, unless performing work on-site
† Applies only if Subcontractor is a M/WBE; only include these forms for the particular M/WBE Entity

☐ B00844 - Schedule of Participation By SDVOBE
☐ B00845 - Letter of Intent – SDVOBE
☐ B00846 – M/WBE or SDVOBE Joint Check Arrangement Approval Form
☐ B00847 – Joint Venture Affidavit

☐ **This is a Federally-aided construction project (Federal Aid Number is present)**

Document #

☐ 00719 – Special Provisions for Participation by Disadvantaged Business Enterprises†
☐ 00760 - Form FHWA 1273 - Required Contract Provisions for Federal-Aid Construction Contracts
☐ 00820 – MA Supplemental Equal Employment Opportunity, Non-Discrimination and Affirmative Action Program
☐ 00821 – Electronic Reporting Requirements, Civil Rights Programs and Certified Payroll
☐ 00859 – Contractor/Subcontractor Certification Form (this document)
☐ 00860 – MA Employment Laws
☐ 00870 – Standard Federal Equal Employment Opportunity Construction Contract Specifications Executive Order 11246, (41 CFR Parts 60-4.2 and 60-4.3 (Solicitations and Equal Opportunity Clauses)*
☐ 00875 – Federal Trainee Special Provisions

☐ B00853 – Schedule of Participation by Disadvantaged Business Enterprise†
☐ B00854 – Letter of Intent – DBEs†
☐ B00855 – DBE Joint Check Arrangement Approval Form
☐ B00856 – Joint Venture Affidavit
☐ 00861/00880 - Applicable state and federal wage rates from Contract Proposal**

*Applicable only to Contracts or Subcontracts in excess of $10,000
**Does not apply to Material Suppliers, unless performing work on-site
† Applies only if Subcontractor is a DBE; only include these forms for the particular DBE Entity

Signed this _____ Day of _____, 20_____ Under The Pains And Penalties Of Perjury.

_____ _____
(Print Name and Title) (Authorized Signature)

PART 2

PART 2 SUBCONTRACTOR CERTIFICATION: I hereby certify, as an authorized official of this company, that the required documents in Part 1 above were physically incorporated in our Agreement/Subcontract with the Contractor and give assurance that this company will fully comply or make every good faith effort to comply with the same. I further certify that:

1. This company recognizes that if this is a Federal-Aid Project, then this Contract is covered by the equal employment opportunity laws administered and enforced by the United States Department of Labor ("USDOL"), Office of Federal Contract Compliance Programs ('OFCCP"). By signing below, we acknowledge that this company has certain reporting obligations to the OFCCP, as specified by 41 CFR Part 60-4.2.
2. This company further acknowledges that any contractor with fifty (50) or more employees on a Federal-aid Contract with a value of fifty-thousand ($50,000) dollars or more must annually file an EEO-1 Report (SF 100) to the EEOC, Joint Reporting Committee, on or before September 30th, each year, as specified by 41 CFR Part 60-1.7a.
3. For more information regarding the federal reporting requirements, please contact the USDOL, OFCCP Regional Office, at 1-646-264-3170 or EEO-1, Joint Reporting Committee at 1-866-286-6440.
4. This company ☐ has, ☐ has not, participated in a previous contract or subcontract subject to the Equal Opportunity clauses set forth in 41 CFR Part 60-4 and Executive Order 11246, and where required, has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs or the EEO Commission all reports due under the applicable filing requirements.
5. This company is in full compliance with applicable Federal and Commonwealth of Massachusetts laws, rules, and regulations and is not currently debarred or disqualified from bidding on or participating in construction contracts in any jurisdiction of the United States. See : https://www.mass.gov/service-details/contractors-and-vendors-suspended-or-debarred-by-massdot
6. This company is properly registered and in good standing with the Office of the Secretary of the Commonwealth.

Signed this _____ Day of _____, 20_____, Under The Pains And Penalties Of Perjury.

Firm: _____
Address: _____
_____
_____
Telephone Number:_____
Federal I.D. Number:_____
Estimated Start Date:_____
Estimated Completion Date:_____
Estimated Dollar Amount:_____

_____
(Print Name and Title)

_____
(Authorized Signature)

_____
(Date)

Rev'd 09/02/22

*** END OF DOCUMENT ***

DOCUMENT 00860

COMMONWEALTH OF MASSACHUSETTS PUBLIC EMPLOYMENT LAWS

Revised February 20, 2019

The Contractor's attention is directed to Massachusetts General Laws, Chapter 149, Sections 26 through 27H, and 150A. This contract is considered to fall within the ambit of that law, which provides that in general, the Prevailing Rate or Total Rate must be paid to employees working on projects funded by the Commonwealth of Massachusetts or any political subdivision including Massachusetts Department of Transportation (MassDOT).

A Federal Aid project is also subject to the Federal Minimum Wage Rate law for construction. When comparing a state minimum wage rate, monitored by the Massachusetts Attorney General, versus federal minimum wage rate, monitored by the U.S. Department of Labor Wage and Hour Division, for a particular job classification the higher wage is at all times to be paid to the affected employee.

Every contractor or subcontractor engaged in this contract to which sections twenty-seven and twenty-seven A apply will keep a true and accurate record of all mechanics and apprentices, teamsters, chauffeurs and laborers employed thereon, showing the name, address and occupational classification of each such employee on this contract, and the hours worked by, and the wages paid to, each such employee, and shall furnish to the MassDOT's Resident Engineer, on a weekly basis, a copy of said record, in a form approved by MassDOT and in accordance with M.G.L. c. 149, § 27B, signed by the employer or his/her authorized agent under the penalties of perjury.

Each such contractor or subcontractor shall preserve its payroll records for a period of three years from the date of completion of the contract.

The Prevailing Wage Rate generally includes the following:

Minimum Hourly Wage + Employer Contributions to Benefit Plans = Prevailing Wage Rate or Total Rate

Any employer who does not make contributions to Benefit Plans must pay the total Prevailing Wage Rate directly to the employee.

Any deduction from the Prevailing Wage Rate or Total Rate for contributions to benefit plans can only be for a Health & Welfare, Pension, or Supplementary Unemployment plan meeting the requirements of the Employee Retirement Income Security Act (ERISA) of 1974. The maximum allowable deduction for these benefits from the prevailing wage rate cannot be greater than the amount allowed by Executive Office of Labor (EOL) for the specified benefits. Any additional expense of providing benefits to the employees is to be borne by the employer and cannot be deducted from the Minimum Hourly Wage. If the employer's benefit expense is less than that so provided by EOL the difference will be paid directly to the employee. The rate established must be paid to all employees who perform work on the project.

When an employer makes deductions from the Minimum Hourly Wage for an employee's contribution to social security, state taxes, federal taxes, and/or other contribution programs, allowed by law, the employer shall furnish each employee a suitable pay slip, check stub or envelope notifying the employee of the amount of the deductions.

No contractor or subcontractor contracting for any part of the contract week shall require or permit any laborer or mechanic to be employed on such work in excess of forty hours in any workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of forty hours in such workweek, whichever is the greater number of overtime hours.

Apprentice Rates are permitted only when there is an Apprentice Agreement registered with the Massachusetts Division of Apprentice Training in accordance with M.G.L. c. 23, § 11E-11L.

The Prevailing Wage Rates issued for each project shall be the rates paid for the entire project. The Prevailing Wage Rates must be posted on the job site at all times and be visible from a public way.

In addition, each such contractor and subcontractor shall furnish to the MassDOT's Resident Engineer, within fifteen days after completion of its portion of the work, a statement, executed by the contractor or subcontractor or by any authorized officer or employee of the contractor or subcontractor who supervises the payment of wages, in the following form:

STATEMENT OF COMPLIANCE

Date: _____

I , _____do hereby state:
(Name of signatory party) (Title)

That I pay or supervise the payment of the persons employed by:

_____
(Contractor or Subcontractor)

on the _____
(MassDOT Project Location and Contract Number)

and that all mechanics and apprentices, teamsters, chauffeurs and laborers employed on said project have been paid in accordance with wages determined under the provisions of sections twenty-six and twenty-seven of chapter one hundred and forty-nine of the General Laws.

Signature _____

Title _____

The above-mentioned copies of payroll records and statements of compliance shall be available for inspection by any interested party filing a written request to the MassDOT's Resident Engineer for such inspection and copying.

Massachusetts General Laws c. 149, §27, requires annual updates to prevailing wage schedules for all public construction contracts lasting longer than one year. MassDOT will request the required updates and furnish them to the Contractor. The Contractor is required to pay no less than the wage rates indicated on the annual updated wage schedules.

MassDOT will request the updates no later that two week before the anniversary of the Notice to Proceed date of the contract to allow for adequate processing by the Department of Labor Standards (DLS). The effective date for the new rates will be the anniversary date of the contract (i.e. the notice to proceed date), regardless of the date of issuance on the schedule from DLS.

All bidders are cautioned that the aforementioned laws require that employers pay to covered employees no less than the applicable minimum wages. In addition, the same laws require that the applicable prevailing wages become incorporated as part of this contract. The prevailing minimum wage law establishes serious civil and criminal penalties for violations, including imprisonment and exclusion from future public contracts. Bidders are cautioned to carefully read the relevant sections of the Massachusetts General Laws.

*** END OF DOCUMENT ***

DOCUMENT 00870

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS
(EXECUTIVE ORDER 11246)
Revised April 9, 2019

1. As used in these specifications:

   a. "Covered area" means the geographical area described in the solicitation from which this contract resulted:

   b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.

   c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

   d. "Minority" includes:

      (i) Black (all persons having origins in any of the black African racial groups not of Hispanic origin);
      (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
      (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
      (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

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

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in Paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

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

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

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

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

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

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

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

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

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

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

   h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

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

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

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

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

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

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

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

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

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

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

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

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

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

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

APPENDIX A

The following goals and timetables for female utilization shall be included in all Federal and federally assisted construction contracts and subcontracts in excess of $ 10,000. The goals are applicable to the Contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or federally-assisted construction contract or subcontract.

Area covered: Goal for Women apply nationwide

Goals and Timetables

Timetable	Goals (percent)
From Apr. 1, 1980 until further notice	6.9

APPENDIX B-80

Until further notice, the following goals for minority utilization in each construction craft and trade shall included in all Federal or federally assisted construction contracts and subcontracts in excess of $ 10,000 to be performed in the respective geographical areas. The goals are applicable to each nonexempt contractor's total on- site construction workforce, regardless of whether or not part of that workforce is performing work on a Federal, federally assisted or nonfederally related project, contract or subcontract.

Construction contractors participating in an approved Hometown Plan (see 41 CFR 6-4.5) are required to comply with the goals of the Hometown Plan with regard to construction work they perform in the area covered by the Hometown Plan. With regard to all their other covered construction work, such contractors are required to comply with the applicable SMSA or EA goal contained in this Appendix B-80.

Economic Areas

STATE:	Goals (percent)
MASSACHUSETTS	
004 Boston MA: SMSA Counties: 1123 Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	4.0
MA Essex, MA Middlesex, MA Norfolk, MA Plymouth, MA Suffolk, NH Rockingham.	
5403 Fall River- New Bedford MA, Bristol	1.6
9243 Worcester-Fitchburg-Leominster, MA	1.6
6323 Springfield-Chicopee-Holyoke MA-CT MA Hampden, MA Hampshire	4.8
Non-SMSA Counties: MA Barnstable, MA Dukes, MA Nantucket	3.6
Non-SMSA Counties: MA Franklin	5.9

APPENDIX C

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), age, sex, disability, or low-income status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for 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 will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, national origin (including limited English proficiency), age, sex, disability, or low-income status.

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

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, MassDOT will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:

    a. withholding payments to the contractor under the contract until the contractor complies; and/or
    b. cancelling, terminating, or suspending a control, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as MassDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request MassDOT to enter into any litigation to protect the interests of MassDOT. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX D

During the performance of this contact, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor," which includes consultants) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

PERTINENT NON-DISCRIMINATION AUTHORITIES:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-Aid programs and projects)

- Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 *et seq.*) (prohibits discrimination on the basis of sex)

- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability) and 49 CFR Part 27

- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age)

- Airport and Airway Improvement Act of 1982 (49 U.S.C. § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex)

- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of Federal-Aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not)

- Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§ 12131-12189), as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38 (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities)

- The Federal Aviation Administration's Non-Discrimination Statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex)

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations)

- Executive Order 13166, Improving Access to Services for People with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100)

- Title IX of the Education Amendments Act of 1972, as amended (20 U.S.C. 1681 *et seq*.) (prohibits discrimination on the basis of sex in education programs or activities)

*** END OF DOCUMENT ***