

REQUEST FOR PROPOSALS



On behalf of the Southside Network Authority

MUNICIPAL FINANCIAL ADVISOR SERVICES

SNA-RFP-2021-01

April 15, 2021

TABLE OF CONTENTS

Request for Proposal No. SNA-RFP-2021-01
Municipal Financial Advisor Services

I. PURPOSE..... 3

II. BACKGROUND 3

III. SCOPE OF WORK..... 3

IV. SCHEDULE OF EVENTS 4

V. CONFLICTS AND QUESTIONS 4

VI. PROPOSAL PREPARATION AND INSTRUCTIONS 4

VII. SPECIFIC PROPOSAL INSTRUCTIONS..... 5

VIII. DISCLOSURE OF PROPOSAL CONTENTS..... 8

IX. SUBMITTAL PROCESS AND INFORMATION..... 8

X. SELECTION CRITERIA..... 9

XI. AWARD OF CONTRACT 11

XII. PRICING SCHEDULE..... 11

APPENDIX A
Disadvantaged Business Enterprises and Disadvantaged Minority Business Enterprises..... 12

APPENDIX B
Required Forms..... 20

ATTACHMENTS

Attachment 1A Nondiscrimination Contractor/Contractor/Supplier Agreement: USDOT 1050.2 –
Appendix A..... 33

Attachment 1B Nondiscrimination Contractor/Contractor/Supplier Agreement: USDOT 1050.2A –
Appendix E 34

Attachment 1C Disadvantaged Business Enterprise Forms..... 35

Attachment 2 Scope of Work 48

Attachment 3 Terms and Conditions, Goods and Non-Professional Services

Section I – Required General Terms and Conditions, Goods and Non-Professional Services:..... 50

Section II – Special Terms and Conditions, Goods and Non-Professional Services:..... 60

I. PURPOSE

The Authority is seeking proposals from qualified firms for the purpose of securing municipal financial advisory services. The selected financial advisor will be requested to perform the following:

1. Assist the Authority, in conjunction with its member localities the Cities of Chesapeake, Norfolk, Portsmouth, Suffolk, and Virginia Beach, in evaluating financing alternatives for the Regional Fiber Connectivity Ring Project.
2. Assist the Authority in the preparation of a request for proposal for financing and/or preparation of the financing portion of a request for proposal under the Public Private Education Facilities and Infrastructure Act of 2002 (PPEA).
3. Assist the Authority in evaluating complex financing proposals, which may include both debt and equity components.
4. If and as requested, execute the plan of finance, including working as part of the team negotiating the terms and conditions of financing on behalf of the Authority. This may include assistance to the Authority with all required approvals and documentation, as well as public presentations to the Board of Directors and to member localities.
5. Provide on-call financial advisory services as requested by the Authority. Such services may include, but not be limited to, financial planning services, analysis of financing alternatives, formulation of debt and financial management related policies, and development of financial plans and advice regarding special projects. Additional scopes of work will be reviewed and agreed to in advance by the Authority and the successful Offeror.

II. BACKGROUND

The Southside Network Authority is a body corporate and politic and a political subdivision of the Commonwealth of Virginia. It is public service authority formed under the provisions of the Virginia Wireless Service Authorities Act. Its purpose is to expand the availability, improve the quality, and decrease the market price of internet service within the 17-locality Hampton Roads Planning District region. Phase 1 of its long-term strategy is to build a 100+ miles “dark fiber” ring within the five southside Hampton Roads cities of Chesapeake, Norfolk, Portsmouth, Suffolk, and Virginia Beach. Preliminary engineering estimates show the likely cost of this project to be in the range of \$23.5 million.

The Authority is in the process of analyzing financing and project delivery options with a decision point expected in early summer 2021. Financial analysis of delivery options is an important component of getting through this decision point. Once this main decision is made, the Authority will require financial advisory services in order to execute the necessary agreements and put funding options in place.

Additional information related to Regional Fiber Connectivity Ring Project is available for review at the Authority’s website at <https://www.southsidenetworkauthority.com/>.

III. SCOPE OF WORK

The Scope of Work is included as Attachment 2.

IV. SCHEDULE OF EVENTS

The Authority shall make every effort to adhere to the following schedule leading to the award of a contract; however, *this schedule is subject to change*. Known Offerors may be notified of significant schedule changes. **Please monitor the following websites for updated information:**

- <https://www.hrpdcva.gov/page/procurement>
- <https://www.hrtpo.org/page/procurement/>

<u>Action</u>	<u>Responsibility</u>	<u>Date</u>
Issuance of RFP	Procurement Office Staff	04/15/2021
Submission of Questions	Potential Offerors	2:00 p.m. on 04/21/2021
Addenda/Questions Published	Procurement Office Staff	04/23/2021
Submission of Proposals	Offerors	2:00 p.m. on 05/18/2021
Oral Presentations	Offerors	To be determined
Post Intent to Award	Procurement Office Staff	To be determined
Award Contract	Procurement Office Staff	To be determined

V. CONFLICTS AND QUESTIONS

Should there be conflicts between the proposal documents and the final contract the final contract shall take precedence.

Interpretations and Requests for Substitution: Any Offeror in doubt as to the true meaning of any part of this request for proposal may submit a written request to the Procurement Office for an interpretation. The Offeror submitting a request will be responsible for its prompt and actual delivery. Any interpretation or approval will be made by addendum duly issued. A copy of such addendum will be posted on the appropriate website listed above. The Authority will not be responsible for any other explanations or interpretations of such documents which anyone presumes to make. Only questions answered by formal written addenda will be binding; oral and other interpretations or clarifications will be without legal effect.

Offerors must submit every request for interpretation or clarification regarding the services to be provided in writing. Email requests must be sent to the Procurement Office staff listed on page 1 of this RFP. Requests transmitted by facsimile must be sent to the attention of "Procurement Office" at (757) 523-4881. To be given consideration, such questions/requests must be received on the date and time noted in Section IV. Any and all such interpretations, clarifications, and any supplemental instructions will be issued in the form of written addenda that will be posted on the designated website(s) prior to the proposal submission deadline. Failure to receive such addenda shall not relieve Offerors from any obligation under the proposal as submitted.

When inquiring, replying or forwarding, please list the RFP number in the subject line. This is used to direct the email or fax to the appropriate person so the Authority may provide prompt service to your request when staff is not available.

VI. PROPOSAL PREPARATION AND INSTRUCTIONS

In order to be considered for selection, Offerors must submit a complete response to this solicitation. **One (1) hard copy original** (marked ORIGINAL) and **one (1) electronic copy** of the proposal in **PDF-format on USB drive or CD/DVD Rom** must be submitted to the Procurement Office by the deadline specified in Section IV. No other distribution of the proposal shall be made by the Offeror.

- A. Proposals shall be signed by an authorized representative of the Offeror. All information requested must be submitted. Failure to submit all information requested may result in staff requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Mandatory requirements are those required by law or such that they cannot be waived and are not subject to negotiation.
- B. Offerors shall examine the RFP, shall exercise their own judgment as to the nature of the whole of the work to be done, and must assume all risk for any computations or statements made in completing the proposal.
- C. Proposals should be prepared simply and economically, providing a straight-forward, concise description of capabilities to satisfy the requirement of the RFP. Emphasis should be placed on completeness and clarity of content. Elaborate brochures and excessive promotion materials are not required or desired.
- D. Proposals should be organized in the order in which the requirements are presented in Section VII of the RFP. All pages of the proposal should be numbered. Each paragraph should reference the corresponding section of the RFP. It is also helpful to cite the paragraph number, sub-number, and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the RFP section, paragraph number and sub-number should be repeated at the top of the next page. The proposal should contain a table of contents which cross references the RFP requirements. Information which the offeror desires to present that does not fall within an area of the requirement of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed. Proposals should take the opportunity to elaborate on the requirements of the RFP, using the expertise of the proposing team to provide insights and innovative approaches to address each requirement of the submission.
- E. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in this single volume, with the exception of proprietary information (see Form 8).

VII. SPECIFIC PROPOSAL INSTRUCTIONS

Any Offeror desiring consideration must submit both a Technical Proposal and a Cost Proposal. All Offerors shall have prior experience with providing similar and related services for other municipal and local government organizations.

Proposals should be as thorough and detailed as possible so that the Authority may properly evaluate the Offeror's capabilities to provide the required services. Offerors are required to submit the following as a complete proposal:

(Please submit the information in the order indicated below)

Complete proposals will be organized into three sections and provide the following information:

- A. **Section I - Required Forms** (see Appendix B of RFP). All forms shall be signed and/or completed as required.
- B. **Section II – Technical Proposal.** The Offeror shall provide a concise description of work experiences, resources, and capabilities as they relate to the Scope of Work (see Attachment 2).

The Technical Proposal should demonstrate that the Offeror understands the intent and scope of the services desired, the character of the deliverables, the services required for their delivery, and the specific tasks that must be performed to supply these services. In addition, the Offeror must demonstrate qualifications to supply the required services.

The Offeror shall prepare a detailed Scope of Services for the project. The Offeror is encouraged to include additional scope of service tasks that it feels should be included. The Scope of Services should describe each step in the overall review, analysis, and completion of the work. The Authority is interested in different innovative and cost-effective approaches to completing the project items and the final Scope of Services will be subject to negotiation. The selected consultant will be responsible for actively managing the project and for providing all services and work to complete the project, including gathering and analyzing all data and requirements.

The Technical Proposal should include, but not be limited to:

Qualifications and Experience and Experience Involving Multiple Local Jurisdictions/Agencies:

- 1. A brief history of the firm, including the number of years in business, the size of the firm, and the location of the office from which the work is to be done.
- 2. A statement of financial stability. Submit a copy of the most recent annual audited financial statement if this is a public document.
- 3. Documentation showing a minimum of five years' demonstrated experience, preferably with public sector/government organizations, and any other specialized services. Briefly describe a maximum of five (5) reference projects and the Offeror's role in each project. Highlight the involvement of any key personnel and/or subconsultants proposed for assignment to this contract. More detailed project summaries for the five (5) reference projects may be provided in an appendix to the proposal; each project summary is not to exceed two (2) pages.

Offeror's General Approach to the Project and Innovation and Creativity:

- 4. A detailed description of the Offeror's proposed approach to the scope of work. This section shall include a description of tasks and products, with reference to a proposed schedule. The proposed approach will ultimately become part of the contract, incorporated in whole or by reference. It should describe in a specific and straightforward manner both the Offeror's understanding of the project and the

proposed approach to accomplishing the tasks described in this Request for Proposals. Please include sufficient detail to completely describe the proposed approach. Description of how the objectives will be achieved shall be presented in a logical, innovative, and rational plan.

The proposed approach should describe each phase or task of the work to be undertaken, including deliverables to be provided. The Offeror should specify any tasks that are assumed to be accomplished by Authority staff and the general level of participation expected from the Authority.

The proposed schedule should show the expected sequence of major tasks and resource requirements for both the Offeror and the Authority. The schedule shall allow time for the Authority to review tasks and submittals as appropriate (2 weeks minimum for major submittals).

Capabilities, Skills, and Resources and Accessibility of Firm and Key Personnel:

5. A brief description of your organizational structure, including the project management process to be used. The consultant shall assign a project manager who will act as Authority's primary contact and who will be entirely responsible for all consultants' work, including any subconsultant work.
6. A description of staff and other resources, including subconsultants, that will be assigned to this contract. Include those individuals to include years of experience with similar successful contracts comparable to the requirements contained in this solicitation and years with the Offeror.

In an appendix, provide short form resumes of those individuals to include years of relevant experience, current office location, and years with the Offeror; each resume is not to exceed two (2) pages. The information provided shall include the expected amount of involvement for each staff person assigned to this project. This statement should include a listing of current or forecast work commitments in sufficient detail to show that the organization and all of the individuals assigned to the project are substantively available to conduct this project. Any changes in key personnel after the award of the project must be approved by the Authority prior to change in staffing.

Identify the proposed team of subconsultants, areas of expertise, and proposed roles in the project. If the Offeror opts to use subconsultants, the Offeror is responsible for coordination of all subconsultant services. General information or a profile for each subconsultant, including company name, office location(s), and key personnel by discipline and office location, may be provided in an appendix to the proposal; each subconsultant profile is not to exceed two (2) pages.

7. A description of Affirmative Action and DBE Participation. Offeror shall present documentation to describe its compliance with Federal and state nondiscrimination laws and regulations and its Small, Women-owned, and Minority-owned (SWaM) and Disadvantaged Business Enterprise (DBE) activities.

8. Exceptions to the RFP. Please provide any exceptions to the terms of this RFP that you feel are necessary in order to fulfill this solicitation.

C. **Section III – Cost Proposal.** The Offeror should provide its proposed fee or cost structure, or alternative fee and cost structures if their firm has several models. Fees and costs structures may be an item for negotiation in finalizing a contract for services.

VIII. DISCLOSURE OF PROPOSAL CONTENTS

Offerors should be aware that the terms of the contract awarded pursuant to the RFP are public information. During the RFP submission and evaluation process, all proposals will be held in confidence and will not be revealed to or discussed with competitors, unless disclosure is required to be made by law or by court ruling. The Authority may use any or all ideas presented in any proposal. Selection or rejection of the proposal does not affect this provision.

IX. SUBMITTAL PROCESS AND INFORMATION

One (1) hard copy original (marked ORIGINAL) and **one (1) electronic copy** of the proposal in **PDF-format on USB drive or CD/DVD Rom** shall be submitted to the Procurement Office by the deadline specified in Section IV. No other distribution of the proposal shall be made by the Offeror. Facsimile copies will not be accepted. The HRPDC, on behalf of the Authority, will accept proposals until 2:00 p.m. on May 18, 2021 delivered to:

Hampton Roads Planning District Commission
Attn: Tiffany Smith, Procurement Office
723 Woodlake Drive
Chesapeake, VA 23320

Offerors that submit a response to this RFP may be required to make an oral presentation of their proposal with participation by key personnel. The Authority reserves the right to request clarification of information submitted. Failure to provide this additional information within a reasonable time period, as specified by the Authority, shall be reason for the Offeror's proposal to be considered non-responsive. These oral presentations usually take the form of a presentation by the Offeror, then a period of Q&A by the Evaluation Committee.

The Authority shall not be responsible for any expense incurred by the Offeror in preparing and submitting a proposal, for answering any subsequent inquiries, interviews for evaluation or contract negotiations. All submissions are final and may not be withdrawn.

The Authority will only provide information (or access to same) which is readily available and does not propose to prepare any further special reports. The Authority reserves the right to charge its normal fees for materials copied.

The right is reserved, as the interests of the Authority may require, to revise and/or amend the specifications prior to the date set for acceptance of proposals; the acceptance date may be postponed if deemed necessary. Such revisions and amendments, if any, will be announced by an addendum to this solicitation on the website.

Late Proposals: To be considered for selection, proposals must be received in the Regional Building (723 Woodlake Drive, Chesapeake, VA 23320) by the designated date and time (see Section IV). Proposals received after the date and time designated will be disqualified and will

not be considered. It is the sole responsibility of the Offeror to ensure that its proposal reaches the Authority by the designated date and time. Receipt of the proposals scheduled during a period of suspended business operations will be rescheduled for processing at the same time on the next business day.

Irregular Proposals: Proposals shall be considered irregular and may be rejected for any of the following reasons unless otherwise prohibited by law:

- If there are unauthorized additions or conditional conditions, or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
- If the Offeror adds any provisions reserving the right to accept or reject any award, or to enter into a contract pursuant to an award.
- If the Offeror fails to meet the proposal specifications or is unresponsive to proposal specifications, questions, and/or terms.
- If the Offeror fails to include an authorized representative's signature on company letterhead.

Withdrawal or Revision of Proposals: An Offeror may, without prejudice, **withdraw a proposal prior to the date and time specified for receipt of proposals** by requesting such withdrawal in writing before the time set for receiving proposals. Telephonic communications for withdrawal shall not be accepted.

Any Offeror may modify their proposal by facsimile communication at any time, provided such communication is received by the Authority prior to the due date of proposals. The communication should not reveal the proposal price but should provide the addition or subtraction or other modification. If written confirmation is not received within two days after the fax, no consideration will be given to the facsimile modification.

Proposal Acceptance Period: Any proposal in response to this solicitation shall be valid for one hundred twenty (120) days. At the end of the 120 days the proposal may be withdrawn at the written request of the offeror. If the proposal is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.

Trade secrets or proprietary information must be submitted in a separate package by an Offeror in response to this Request for Proposal and shall not be subject to public disclosure under the *Virginia Freedom of Information Act*; **however, the Offeror must invoke the protection of this section prior to or upon submission of data or materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary** (§2.2-4342F of the *Code of Virginia*). **NOTE: The entire proposal CANNOT be considered proprietary. Please reference Form 8 when replying to this section.**

X. **SELECTION CRITERIA**

An Evaluation Committee composed of representatives of the Authority will evaluate each proposal received and submit a recommendation to the Procurement Office. The Evaluation Committee will evaluate each proposal pursuant to the Authority's standard procedures for procurement through competitive negotiation. Selection will be made on the basis of the following factors and the results of any Oral Presentations, if such presentations scheduled (see Section IV). All factors will be scored based solely on the Committee's evaluation.

- A. Evaluation of Proposals: The following evaluation criteria will be used to select the top proposal(s). Offerors are encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. If only one stands out, staff will begin negotiations with that Offeror. Should more than one stand out, the Offerors of the top proposals will be contacted for oral presentations. The Evaluation Committee will determine the final rankings following the Oral Presentations, and the top ranked firm will be contacted, and negotiations will begin. Should those negotiations fail, the second highest ranked firm will be contacted for negotiations to begin, and so forth until negotiations have been finalized.

<u>Factors</u>	<u>Point Value</u>
Qualifications and Experience	25%
Experience Involving Multiple Local Jurisdictions/Agencies	10%
Offeror's General Approach to the Project	10%
Innovation and Creativity	5%
Capabilities, Skills, and Resources	25%
Accessibility of Firm and Key Personnel	10%
*DBE/SWaM Participation	10%
**Cost	<u>5%</u>
Total	100%

* To ensure the full participation of DBEs in all phases of the HRPDC's procurement activities, all Offerors at time of proposal submission shall complete and submit a DBE Participation Form-400. If a DBE Participation Form-400 is not submitted with proposal, it shall be determined that the Offeror was non-responsive to the DBE provisions and the proposal will not be evaluated by the selection committee. Points will be allocated under the DBE/SWaM Participation factor as described below:

- (5%) Proposal complies with contract DBE participation goal of 10% or will conduct good faith efforts to do so.
- (5%) Proposal submitted a quality DBE Participation Plan that includes innovative strategies and approaches to achieve and maintain compliance over the contract term, including firm's past performance on meeting DBE goals, technical assistance and supportive services designed to increase participation and build capacity in the DBE community.

**Total cost, products delivered, and schedule will all be considered during the selection process. Specific attention will be given to the commitment implied for key staff and the overall labor effort proposed, and their relationship to the estimated project cost. In addition, special attention will be placed on the strength of the approach and qualifications described in the proposal. For design-build proposals, the Evaluation Committee shall evaluate each proposal and rank those proposals based on the best interests of the Authority and its member localities.

- B. After the Evaluation Committee's initial evaluation of the proposals, the Committee may hold interviews with the top ranked Offerors. Offerors selected for an interview will be contacted at least three days before the Oral Presentation date noted in Section IV. Each Offeror's presentation shall be limited to not more than 20 minutes. Any area of specific concern will be identified before the interview. The Authority reserves the right to select a proposal based both on written proposals and the Oral Presentations, if scheduled (see Section IV).

XI. AWARD OF CONTRACT

- A. Selection shall be made of one or more reasonable and responsive Offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the request for proposal, including price if so stated. The evaluation criteria and Oral Presentations could both factor into this selection. Negotiations shall then be conducted with the highest ranked Offeror first and proceed until finalized. After evaluations have been completed, the Evaluation Committee shall recommend for contract award the Offeror(s), which, in the Committee's opinion, made the best proposal. When the terms and conditions of multiple awards are so provided in the request for proposal, awards may be made to more than one Offeror. Should the Committee determine, in writing, that only one Offeror is fully qualified or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.
- B. The Authority reserves the right to reject any and all proposals and waive any and all informalities and the right to disregard all non-conforming or conditional proposals or counter proposals. The Authority reserves the right to reject any proposals if investigation of such Offerors fails to satisfy the Authority that such Offeror is properly qualified to carry out the obligations and to complete the work contemplated by the contract documents.
- C. The Authority may cancel this Request for Proposals at any time prior to an award and is not required to furnish a reason why a particular proposal was not deemed the most advantageous.
- D. The RFP, including its venue, termination, and payment schedule provisions, shall be incorporated by reference into the contract documents as if its provisions were stated verbatim therein. Therefore, any exception to any provisions of the RFP shall be explicitly identified in a separate "Exceptions to RFP" section of the proposal for resolution before execution of the contract. In case of any conflict between the RFP and any other contract documents, the contract shall prevail. Please identify any "Exceptions to RFP." In the case of any conflict between the proposal and any other contract documents, the contract shall take precedence.
- E. Any and all proposals will be rejected if there is reason to believe that collusion exists among the Offerors. The signature on the face of the proposal certifies that the proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person also submitting a proposal for the same services and is in all respects fair and without collusion or fraud. Collusive bidding is a violation of the Virginia Governmental Frauds Act and federal law and can result in fines, prison sentences, and civil damage awards. Offeror's signatory agrees to abide by all conditions of this proposal and certifies that he/she is authorized to sign the proposal.

XII. PRICING SCHEDULE:

Proposals shall provide pricing based on the requirements and terms set forth in the RFP. Pricing shall be all-inclusive covering every aspect of the contract. No additional fees shall be added unless authorized by the Authority.

Offerors may propose alternative or combination pricing schemes, e.g., pricing based on time and materials or services provided as part of work on a financing, or some combination.

APPENDIX A
Disadvantaged Business Enterprises and Disadvantaged Minority Business Enterprises

The recipient in accordance with *Title VI of the Civil Rights Act of 1964, 78 stat. 252 US C 2000d- 2004d-4* and *Title 49 CFR Department of Transportation, Subtitle A, Office of the Secretary Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation*, issued pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation, and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.

It is the policy of the Authority that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of DOT assisted contracts. The Commonwealth's Department of Small Business and Supplier Diversity (SBSD) has encompassed both SWaM (Small, Women-owned, and Minority-owned Business) and DBE (Disadvantaged Business Enterprise). This Department can be found at www.sbsd.virginia.gov. This department will coordinate certification for these types of vendors. Contractors are encouraged to take all necessary and reasonable steps to ensure that SWaM and DBEs have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the contractor intends to subcontract a portion of the services on the project, the contractor is encouraged to seek out and consider SWaM and DBEs as potential sub-contractors. The contractor is encouraged to contact SWaM and DBEs to solicit their interest, capability and qualifications. Any agreement between a contractor and a SWaM or DBE whereby the SWaM or DBE promises not to provide services to other contractors is prohibited. If a SWaM or DBE is not certified, they must become certified (with the Virginia Department of Minority Business Enterprise) prior to your response being submitted. If a SWaM or DBE is the prime contractor, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by SWaM or DBE sub-contractors. SWaM or DBE prime contractors are encouraged to make the same outreach efforts as other contractors. SWaM or DBE credit will be awarded only for work actually being performed by the SWaM or DBE themselves. When a SWaM or DBE prime contractor, or sub-contractor, subcontracts work to another firm, the work counts toward SWaM or DBE goals only if the other firm is itself a SwaM or DBE. A SWaM or DBE must perform or exercise responsibility for at least 30% of the total cost of the contract with its own force.

The Authority actively solicits including Small, Women- and Minority-owned (SWaM) and DBE (Disadvantaged Business Enterprise) businesses to respond to all Invitations for Bids and Requests for Proposals.

I. DBE PROGRAM COMPLIANCE

The requirements of the HRPDC Disadvantaged Business Enterprise (“DBE”) Program apply to this Agreement. It is the policy of the HRPDC to practice nondiscrimination based on social and economic disadvantage, race, color, gender, disability, and national origin in the award and performance of contracts. In consideration of this policy and pursuant to Title 49, Part 26, Code of Federal Regulations, HRPDC has enacted the DBE Program for all of its contracts.

Contractor agrees to use its best efforts to fully and completely carry out the applicable requirements of HRPDC’s DBE Program in the award and administration of this Agreement, including without limitation, all reporting requirements and established DBE participation percentage. The Contractor’s failure to carry out these requirements, as determined in good faith by HRPDC’s Procurement Officer, shall be deemed a material breach of this Agreement. This material breach may result in the termination of this Agreement and/or the pursuit of any other remedies available to HRPDC under any applicable law, ordinance, or rule, including, but not limited to those set forth in the DBE Program.

II. DBE CONTRACT GOAL

HRPDC has established a 10% DBE Participation Goal for this contract, as listed in the Executive Summary section of the RFP. Participation shall be counted toward meeting the contract goal based on the following:

1. Only business entities certified as DBEs are counted toward the contract DBE participation goal.
2. The Contractor may count only the total dollar value of the subcontract awarded to certified DBE subcontractor/supplier(s) toward the contract goal.
3. A Contractor can count 100 % of the DBE’s participation provided that the DBE has committed to performing at least 51% of the work with its own forces.
4. Contractor may count 100 % of DBE Manufacturer Supplier’s participation and 60% of DBE Non-Manufacturer supplier’s participation toward its contract goal.
5. When the Contractor is in a joint venture with one or more DBE business entities, the Procurement Officer, after reviewing the joint venture agreement, shall determine the percent of participation that will be counted toward the contract goal.
6. Contractor may count toward its contract goal only those DBE subcontractors/suppliers performing a Commercially Useful Function.

“DBE Commercially Useful Function” means a discrete task or group of tasks, the responsibility for performance of which shall be discharged by the DBE firm by using its own forces or by actively supervising on-site the execution of the tasks by another entity for whose work the DBE firm is responsible. In determining whether a certified firm is performing a commercially useful function, factors including, but not limited to, the following shall be considered:

- a. Whether the business entity has the skill and expertise to perform the work for which it is being utilized and possesses all necessary licenses;

- b. Whether the firm is in the business of performing, managing, or supervising the work for which it has been certified and is being utilized;
- c. Whether the DBE subcontractor is performing a real and actual service that is a distinct and verifiable element of the work called for in a contract;
- d. Whether the DBE subcontractor performed at least thirty percent (30%) of the cost of the subcontract (including the cost of materials, equipment or supplies incident to the performance of the subcontract) with their own forces.

III. DBE DIRECTORY

Only DBEs who are currently certified and listed on the Virginia Department of Small Business and Supplier Diversity's (SBSD) web-based DBE Directory, may be used to meet the contract participation goal. Subcontracts award to SWaM Certified vendors cannot be substituted for DBE certified firms unless the firm is also DBE certified. The directory is available at (<http://www.sbsd.virginia.gov/>) under the DBE Vendor Directory of Virginia Unified Certification Program.

IV. GOOD FAITH EFFORT POLICY

HRPDC shall reject any bid and shall not award, enter into, or amend any contract that is not supported by documentation establishing that the Bidder/Proposer has met the applicable contract DBE participation Goal or made Good Faith Efforts to the applicable contract DBE participation goal.

Good Faith Efforts are steps taken to achieve a contract DBE participation goal or other requirements which, by their scope, intensity, and usefulness demonstrate the Bidder's or Proposer's responsiveness to fulfilling HRPDC's DBE Program goals prior to the award of a contract, as well as the Contractor's responsibility to put forth measures to meet or exceed the contract DBE participation goal throughout the duration of the contract.

The Procurement Officer shall be responsible for determining whether a Contractor has made their best efforts to achieve the DBE Program contracting objectives. In making this determination, the following factors will be considered:

A. SPECIFIC PORTIONS OF WORK IDENTIFIED FOR DBE SUBCONTRACTOR:

- 1. Contractor listed all selected scopes or portions of work to be performed by DBEs in order to increase the likelihood of meeting the contract goal for the project.
- 2. Contractor listed the estimated value of each scope or portions of work identified.

B. NOTIFYING CERTIFIED DBES OF CONTRACTING OPPORTUNITIES:

- 1. Contractor contacted the Procurement Officer to request submission of subcontracting opportunities on the DBE Opportunities page.
- 2. Contractor included a copy of each announcement or notification.

C. INITIAL SOLICITATION & FOLLOW-UP:

1. Contractor listed all certified DBE firms that received written notification of work items to be subcontracted and documented the certified firm's response.
2. Contractor included copies of the written notice(s) sent to certified firms.

D. NEGOTIATE IN GOOD FAITH:

1. Contractor provided an explanation for any rejected DBE bid or price quotation.
2. Contractor included a copy of the written rejection notice including the reason for rejection to the rejected DBE firm.

If the most qualified Contractor has not met the DBE participation Goal, after scoring, selection approval and final negotiations, the firm must apply for a Good Faith Effort (GFE) Modification or Waiver. The firm will be deemed ineligible for award of the contract unless the firm either meets the goal or receives an approved GFE Modification or Waiver from the HRPDC's Procurement Officer. However, if the Contractor fails to submit documented Good Faith Efforts as outlined, the proposal shall be considered non-responsive.

The Procurement Officer may consider the performance of other Contractors in meeting the contract DBE participation goal and may, if deemed advisable, request further information, explanation or justification from any Contractor. A Contractor's prior history utilizing DBEs will also be taken in consideration when determining Good Faith Efforts.

Good Faith Efforts shall be monitored throughout the life of the contract and evaluated on a case-by-case basis in deciding whether a Bidder or Proposer is in compliance with the Good Faith Effort policy.

V. REQUIRED DBE FORMS for RFPs/RFQs

To ensure the full participation of DBEs in all phases of HRPDC procurement and contracting opportunities, all Contractors at time of proposal submission shall complete and submit a ***DBE Participation Form-400 (see Attachment 1C)***.

A. DBE Participation Form-400 (Attachment "1C"):

A completed DBE Participation Form-400 shall be considered a methodology on how the Contractor plans to meet the contract DBE participation goal if awarded the contract.

1. If a DBE Participation Form-400 (Attachment "1C") is not submitted, it shall be determined that the Contractor was non-responsive to the DBE provisions and the proposal will not be evaluated by the selection committee.

B. DBE Good Faith Effort (GFE) Form-401:

1. If the amount of DBE participation on the DBE Participation Form-400 is less than the Contract Goal, the selected Contractor shall complete DBE GFE Form-401. This form is used to document Good Faith Efforts when the amount of DBE participation submitted on the DBE Participation Form-400 is less than the contract DBE participation goal. The selected Contractor shall provide all required supporting documentation of demonstrated Good Faith Efforts as specified on the DBE GFE Form-401.

The Procurement Officer shall review the contents of all required DBE Compliance Forms and may, if deemed advisable, request further information, explanation or justification from any Bidder/Proposer/Contractor. Thereafter, the Contractor shall be bound by the established percentage, as approved by the Procurement Officer.

VI. CONTRACTOR COOPERATION

The Contractor shall:

- A. Designate an individual as the “DBE Liaison” who will monitor the Contractor’s DBE participation as well as document and maintain records of “Good Faith Efforts” with DBE subcontractors/suppliers (“DBE Entities”).
- B. Execute written contracts with DBE Entities that meet the applicable DBE goals.
 1. The contractor shall provide the Procurement Officer with copies of said contracts within thirty (30) days from the date the Agreement is fully executed between HRPDC and the Contractor.
 2. The Contractor shall agree to promptly pay subcontractors, including DBE Entities, in accordance with law.
- C. Establish and maintain the following records for review upon request by the Procurement Officer:
 1. Copies of written contracts with DBE Entities and purchase orders;
 2. Documentation of payments and other transactions with DBE Entities;
 3. Appropriate explanations of any changes or replacements of DBE Entities, which may include a record of “Post-Award Good Faith Efforts” for each certified firm that the Contractor does not use in accordance with the approved DBE participation submission;
 4. Any other records required by the Procurement Officer.

The Contractor is required to maintain such records for three (3) years after completion or closeout of the Agreement. Such records are necessary to determine compliance with their DBE obligations.

- D. HRPDC is also required to capture DBE and SWaM payment information on all professional services contracts. The successful prime contractor will be required to complete the **Vendor Payment Compliance Report Form-463** for both state and federally funded projects with each invoice and within 20 days of receipt of final payment.

Failure to fulfill the DBE Participation contract goal requirement may result in HRPDC exercising the rights and remedies available in accordance with the provisions of the contract and may be considered a breach of contract. Actions against the prime vendor/Contractor may include debarment or removal of the firm from other contracts the contractor has with HRPDC.

1. Reports are required even when no activity has occurred in a monthly period.
2. If the established percentage is not being met, the monthly report shall include a narrative description of the progress being made in DBE participation.
3. The Contractor may also be required to submit copies of canceled checks or bank

statements that identify payer, payee and amount of transfer to verify payment information as indicated on the form.

- E. Conform to the established percentage as approved by the Procurement Officer.
 - 1. The total dollar amount of the Agreement shall include approved change orders and amendments. For a requirements contract, the total dollar amount shall be based in actual quantities ordered.
 - 2. No changes to the established percentage and DBE Entities submitted on DBE Participation Form-400 shall be allowed without approval by the Procurement Officer.
 - 3. HRPDC will not adjust the contract for any increase in cost due to replacement of DBE Entities.

VII. POST-AWARD MODIFICATION

Post-award modifications are change requests made by the Contractor/Contractor to meet the DBE participating goal after the contract has been awarded and executed, but before the project has been completed, and when an approved DBE had withdrawn its services, when the DBE has been removed for just cause, or when the scope of services has been changed by HRPDC.

49 Code of Federal Regulations 26.53 (49 CFR 26.53) provides that prime Contractors/Contractors may not terminate for convenience an approved DBE working on a federally assisted contract and then perform the work of the terminated DBE. Failure to comply with regulatory or contractual requirements may result in sanctions.

The Procurement Officer may grant a post-award modification request if:

- 1. For a reason beyond the Contractor/Contractor's control, the Contractor is unable to use the certified DBE entity submitted on DBE Participation Form-400 to perform the specified work. The Contractor must notify the Procurement Officer of the intent for removal and substitution of a certified DBE immediately upon determination that the DBE submitted on DBE Participation Form-400 is unable to perform the specified work. In such case, the Contractor shall use and document "Good Faith Efforts" to find a similarly qualified and certified DBE entity to perform such specified work. The same criteria used for establishing "Good Faith Efforts" in maximizing the participation of DBE Entities prior to awarding the Agreement will also apply to the substitution of DBE subcontractors during the performance of the Agreement; or
- 2. The Contractor reasonably believes that, due to a change of scope, execution of the work in accordance with the directions from the HRPDC is unlikely to meet the established percentage or terms. In such case, the Contractor shall use and document "Good Faith Efforts" to achieve a reasonable amount of DBE participation on the remaining work on the Agreement.

VIII. MONITORING DBE PARTICIPATION

To ensure compliance with DBE requirements during the term of the Agreement, the Procurement Officer will monitor the Contractor's use of DBE subcontractors/suppliers ("**DBE Entities**") through the following actions:

- A. Job site visits;

- B. Routine audits of contract payments to all subcontractors;
- C. Reviewing of records and reports; and/or
- D. Interviews of selected personnel.

The Procurement Officer may schedule inspections and on-site visits with or without prior notice to the Contractor/ Contractor or DBE Entities.

IX. FAILURE TO COMPLY

If the Procurement Officer determines in good faith that the Contractor failed to carry out the requirements of the DBE Program, such failure shall be deemed a material breach of this Agreement. This material breach may result in the termination of the Agreement and/or the pursuit of any other remedies available to HRPDC under any applicable law, ordinance, or rule, including, but not limited to those set forth in HRPDC's DBE Program.

All DBE Compliance forms are maintained by the Procurement Office and are subject to change. Please contact the Procurement Office at tsmith@hrpdcva.gov to request a copy of all DBE referenced documents or visit our website at www.hrpdcva.gov.

SWAM PARTICIPATION: In accordance with the Governor's Executive Order No. 20, the Hampton Roads Planning District Commission (HRPDC) also requires the utilization of Small, Women and Minority (SWaM) Businesses to participate in the performance of state funded contractor contracts. A list of Virginia Department of Small Business and Supplier Diversity (DSBSD) certified SWaM firms is maintained on the DSBSD web site (<http://www.sbsd.virginia.gov/>) under the **SWaM Vendor Directory** link. Contractors are encouraged to take all necessary and reasonable steps to ensure that SWaM firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the contractor intends to subcontract a portion of the services on the project, the contractor is encouraged to seek out and consider SWaM firms as potential sub-contractors. The contractor is encouraged to contact SWaM firms to solicit their interest, capability, and qualifications. Any agreement between a contractor and a SWaM firm whereby the SWaM firm promises not to provide services to other contractors is prohibited.

If portions of the services are to be subcontracted to a SWaM firm, the following needs to be submitted with your proposal and both must reference the RFP for the services:

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

49 CFR Part 26 requires the HRPDC to collect certain data about firms attempting to participate in HRPDC contracts. This data must be provided on the enclosed Vendor Verification Form 6.

HRPDC is also required to capture SWaM payment information on all professional services contracts. The successful prime contractor will be required to complete The Vendor Payment Compliance Report form- 463 for both state and federally funded projects on quarterly basis.

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

SWaM certification entitles contractors to participate in HRPDC's SWaM program. However, this certification does not guarantee that the firm will obtain HRPDC work nor does it attest to the firm's abilities to perform any particular work.

APPENDIX B

REQUIRED FORMS

- Form 1: Cover Sheet
- Form 2: Signature Letter on Corporate Letterhead
- Form 3: Addenda - signed
- Form 4: Certification of Compliance with Immigration Laws and Regulations
- Form 5: Litigation Disclosure Form
- Form 6: Vendor Certification Verification Form
- Form 7: State Corporation Commission Identification Number
- Form 8: Proprietary Information
- Form 9: References
- Form 10: Lobbyist Disclosure Form
- Attachment 1C: All DBE Forms

**FORM 1
COVER SHEET**

RFP#: _____ **RFP TITLE:** _____

In compliance with this Request for Proposal, and to all the conditions imposed therein and hereby incorporated by reference, the Undersigned offers, and agrees to furnish goods/services requested in this solicitation.

THIS SECTION TO BE COMPLETED BY OFFEROR:

NAME AND ADDRESS OF FIRM:

_____ Zip Code: _____

Date: _____

By: _____
(Sign in Ink)

Name: _____
(Please Print)

Title: _____

FEI/FINT No.: _____

Phone: _____ Fax: _____

Email: _____

Website: _____

CONTACT INFORMATION *(if differs from above):*

Name: _____

Email: _____

Title: _____

Office Phone: _____

Address: _____

Mobile Phone: _____

Facsimile Phone: _____

FORM 2
PROPOSAL SIGNATURE SHEET
(Must be submitted on your corporate letterhead)

My signature certifies that the proposal as submitted complies with all Terms and Conditions as set forth in this RFP. My signature also certifies that by submitting a proposal in response to this Request for Proposals, the offeror represents that in the preparation and submission of this proposal, said offeror did not, either directly or indirectly, enter into any combination or arrangement with any person, firm or corporation or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free, competitive bidding in violation of the Sherman Act (15 U.S.C. Section 1 et seq.) or § 59.109.1 through 59.1-9.17 or § 59.1-68.6 through 59.1-68.8 of the Code of Virginia. In addition, my signature certifies that the offeror has been made aware of the initial Request for Proposals, as well as any and all addenda.

Certification of Eligibility: The firm is not ineligible to receive award of a contract due to the firm's inclusion on any Federal or Virginia State lists of debarred contractors, or otherwise ineligible to be awarded a contract using Federal or State funds.

I hereby certify that I am authorized to sign as a Representative for the Firm:

NAME OF OFFEROR: _____

ADDRESS: _____

FED ID NO.: _____

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____

TELEPHONE: _____

EMAIL: _____

FAX: _____

DATE: _____

FORM 3

ADDENDA RECEIVED AND ACKNOWLEDGED

By signing this form, offeror acknowledges receipt of any and all Addenda published after initial RFP was issued.
Attach copy of all such Addenda following this form.

Receipt of addenda acknowledged:

Signature

Date

FORM 4

**CERTIFICATION OF COMPLIANCE WITH IMMIGRATION
LAWS AND REGULATIONS**

The Authority requires that any person or entity doing business with the Authority, including its boards and commissions, shall include a sworn certification by the offeror of compliance with all federal immigration laws and regulations. These laws include the *Federal Immigration Reform and Control Act*, which makes it unlawful for a person or other entity to hire, recruit or refer for a fee for employment in the United States, an alien knowing the alien is unauthorized, and §40.1-11.1 of the *Code of Virginia*, which makes it unlawful for any employer to knowingly employ an alien who cannot provide documents indicating that he or she is legally eligible for employment in the United States. The state law, in particular, places an affirmative duty on employers to ensure that aliens have proof of eligibility for employment.

Accordingly, this certification shall be completed and attached to all contracts and agreements for goods and services made by the Authority or any of its boards and commissions. Failure to attach a completed certification shall render the contract or agreement void.

Type or print legibly when completing this form.

Legal Name of Offeror:

(Note: This is your name as reported to the IRS. This should match your Social Security card or Federal ID number.)

Type of Business Entity:

_____ Sole Proprietorship (Provide full name and address of owner):

_____ Limited Partnership (Provide full name and address of all partners):

_____ General Partnership (Provide full name and address of all partners):

_____ Limited Liability Company (Provide full name and address of all managing members):

_____ Corporation (Provide full name and address of all officers): *(on separate sheet, attached)*

Doing Business As (if applicable):

(Note: This is the name that appears on your invoices but is not used as your reporting name.)

Name and Position of Person Completing this Certificate:

Physical Business Address:

Primary Correspondence Address (if different from physical address):

Number of Employees:

Are all Employees Who Work in the United States Eligible for Employment in the United States?

____ Yes ____ No

Under penalties of perjury, I declare on behalf of the offeror listed above that to the best of my knowledge and based upon reasonable inquiry, each and every one of the offeror's employees who work in the United States are eligible for employment in the United States as required by the *Federal Immigration Reform and Control Act of 1986* and §40.1-11.1 of the *Code of Virginia*. I further declare on behalf of the offeror that it shall use due care and diligence to ensure that all employees hired in the future who will work in the United States will be eligible for employment in the United States. I affirm that the information provided herein is true, correct, and complete.

Sworn this ____ day of _____, 20__ on behalf of _____ as evidenced by the following signature and seal:

Name of Contractor/Vendor: _____

Printed Name of Signatory: _____

Signature: _____

Date: _____

STATE OF _____:

CITY/COUNTY OF _____ to wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____.

Notary Public

Registration No: _____ My Commission expires: _____

FORM 5

LITIGATION DISCLOSURE FORM

Respond to each of the questions below by checking the appropriate line. Failure to fully and truthfully disclose the information required by this Litigation Disclosure Form may result in the disqualification of your bid or proposal from consideration or termination of the contract, once awarded. For purposes of this disclosure form, "you" means the individual or entity in whose name the bid or proposals were submitted.

Have you or any principal, officer or director of your company, or any individual who will be assigned to work under any contract awarded pursuant this solicitation, been convicted of a felony, or a misdemeanor involving moral turpitude, during the last ten (10) years?

Yes No

Have you or any principal, officer or director of your company, or any individual who will be assigned to work under any contract awarded pursuant this solicitation, been terminated (for cause or otherwise) from any work being performed for the Authority or any other governmental or private entity during the last ten (10) years?

Yes No

Have you or any principal, officer or director of your company, or any individual who will be assigned to work under any contract awarded pursuant this solicitation, been involved in any claim or litigation with the Authority or any other governmental or private entity during the last ten (10) years?

Yes No

Has any parent company or wholly owned subsidiary of your company been involved in any claim or litigation with the Authority or any other governmental or private entity during the last ten (10) years?

Yes No

If you answered "Yes" to any of the above questions, please state the name(s) of the person(s), the nature, and the status and/or outcome of the conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your bid or proposal.

FORM 6

VENDOR CERTIFICATION
VERIFICATION FORM

Vendor Name: _____

Vendor Address: _____

Contact Person: _____

Title: _____

Email Address: _____

Phone: _____

Vendor Fax: _____

CERTIFICATIONS

DBE CERTIFICATION

CERTIFICATION #: _____

CERTIFYING AGENCY: _____

NAICS CODE: _____

DESCRIPTION: _____

SWaM CERTIFICATION

CERTIFICATION #: _____ SWaM TYPE _____

SERVICE-DISABLED VET

CERTIFICATION #: _____ DATE _____

EXP DATE: _____

CERTIFYING AGENCY: _____

Years in Business _____

MINORITY INDICATOR

African American

Asian Indian

Asian Pacific

Hispanic American

Native American

Non-Minority Woman

FORM 7

STATE CORPORATION COMMISSION IDENTIFICATION NUMBER

Pursuant to *Code of Virginia* §2.2-4311.2(b), an Offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 **is required to include in its proposal the identification number issued to it by the State Corporation Commission (SCC)**. Any Offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its proposal a statement describing why the Offeror is not required to be so authorized.

SCC Identification Number: _____ **(REQUIRED)**

FORM 8

PROPRIETARY INFORMATION

Trade secrets or proprietary information submitted by an Offeror in response to this Request for Proposal shall not be subject to public disclosure under the *Virginia Freedom of Information Act*; however, the Offeror must invoke the protection of this section prior to or upon submission of data or materials and **must identify the data or other materials to be protected and state the reasons why protection is necessary** (§2.2-4342F of the *Code of Virginia*).

Please enclose all proprietary information in a sealed envelope and attach ONLY to the ORIGINAL proposal.

Below, please reference appropriate page numbers, Section numbers, paragraph numbers, etc. where this data should be inserted, along with an explanation as to why it is proprietary and protected by §2.2-4342F of the Code of Virginia.

FORM 9

REFERENCES

Name of Firm:

Address:

Contact:

Name:

Title:

Email:

Phone

Facsimile

Years in Relationship: _____

Name of Firm:

Address:

Contact:

Name:

Title:

Email:

Phone

Facsimile

Years in Relationship: _____

Name of Firm:

Address:

Contact:

Name:

Title:

Email:

Phone

Facsimile

Years in Relationship: _____

FORM 9 (continued)

REFERENCES (continued)

Name of Firm:

Address:

Contact:

Name:

Title:

Email:

Phone

Facsimile

Years in Relationship: _____

XIII. Name of Firm:

Address:

Contact:

Name:

Title:

Email:

Phone

Facsimile

Years in Relationship: _____

FORM 10
LOBBYIST DISCLOSURE FORM

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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 modification 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.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of the certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. The certification is a material representation of the fact on which reliance was placed when this transaction was made or entered into. Submission of the certification is a prerequisite for making or entering into the transaction imposed by §1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by §1352, Title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Applicant's Authority:

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants, cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

Printed name of authorized representation

Title of authorized representation

Signature Date

Attachment 1A

Nondiscrimination Contractor/Contractor/Supplier Agreement: USDOT 1050.2A – Appendix A

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

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

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

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

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

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

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

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

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

Attachment 1B

Nondiscrimination Contractor/Contractor/Supplier Agreement: USDOT 1050.2A – Appendix E

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

Pertinent Nondiscrimination 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 the 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, which prohibit 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 (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- 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, which ensures non-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 Persons 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 (79 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*)



Attachment 1C



Disadvantaged Business Enterprise Forms

HRPDC/HRTPO subscribes to the Virginia Department of Transportation overall goals for socially and economically disadvantaged businesses for all public spending or private projects that utilize public funding and/or incentives.

A Contract goal of 10% DBE participation has been established for this RFP. Attachment 1C forms and supporting documentation must be submitted in the proposal. Offerors shall agree to use their best efforts to assure compliance with the factors set forth in the DBE Program to meet the goal for DBE Participation in the performance of this solicitation.

Required Attachments:

1. DBE PARTICIPATION FORM-400

If the amount of DBE Participation is less than contract Goal, Offerors shall complete:

2. DBE GFE FORM-401.

Contact Danetta Jankosky, Procurement Officer, at (757) 420-8300 if you need assistance.

HRPDC/HRTPO DBE COMPLIANCE FORMS

DBE PARTICIPATION FORM-400

Contact the Procurement Officer for questions on completing this form.

Via email: djankosky@hrpdcva.gov

Or

757-420-8300

Proposers: This completed form must be submitted with your proposal. **You must complete every section of the form or your proposal will be deemed non-responsive.** If a section is not applicable to your proposal, you must explain why it is not applicable on a separate attachment or your proposal will be deemed non-responsive. The prime vendor/contractor shall select DBEs to perform, at minimum, work which corresponds in dollar value to the DBE participation goal stated in the RFP. DBEs must perform a commercially useful function as required by 49 CFR 26.55 of the Federal Register and the Contractual requirements. You may use additional pages as warranted.

SECTION I – SOLICITATION INFORMATION

RFP/RFQ/Solicitation #: _____ RFP Due Date: ____/____/____ Contract DBE Participation Goal: % _____ \$ _____

RFP Title: _____ Description: _____

SECTION II – PROPOSER INFORMATION

Proposer Firm Name: _____ Address: _____

City: _____ State: _____ Zip Code: _____ Phone: _____ Email: _____

Contact Person: _____ DBE #: _____ SWaM # _____ Micro

Proposer Check the Appropriate Space Below:

- I am committed to the contract goal of 10% DBE utilization. If selected, I understand that I must submit signed commitment forms from all DBEs listed on this participation plan in order to be awarded a contract.
- I am unable to meet the DBE contract goal; however, I am committed to a minimum of _____ % & \$ _____ of DBE utilization and will submit documentation demonstrating good faith efforts. (You must complete and submit a DBE GFE Form-401, along with all required supporting documentation or your proposal will be deemed non-responsive.)
- I am unable to meet the DBE Contract Goal (You must complete and submit DBE GFE (Good Faith Effort) Form-401, along with all required supporting documentation or your proposal will be deemed non-responsive)

HRPDC/HRTPO DBE COMPLIANCE FORMS

DBE PARTICIPATION FORM-400

Contact the Procurement Officer for questions on completing this form.

Via email: djankosky@hrpdcva.gov

Or

757-420-8300

SECTION III – SUBCONTRACTOR INFORMATION: You must list all DBE firms that have agreed to participate on the contract. **Please note:** Every DBE firm listed must be utilized on the project. To remove and/or replace a DBE Firm you must submit a DBE removal/Substitution Request Form-404 and receive approval from the Office of Business Diversity & Engagement to remove and/or replace the firm. It is the proposer’s responsibility to verify that the DBE firm is properly certified prior to submitting the DBE Participation Form-400. Each commitment must be accompanied by written confirmation from the listed DBE Firms that it is participating in the contract as stated in the prime contractor’s commitment. A copy of a DBE’s quote will serve as written confirmation that the DBE is participating in the contract. (Make additional copies of subcontractor form if needed)

Sub-Contractor Firm Name: _____ DBE # _____ SWaM # _____ Neither

Address: _____ City: _____ State: _____ Zip Code: _____

Phone No: _____ Email: _____ Contact Person: _____

Scope of work to be performed by the DBE: _____

Dollar Value of subcontract	% of Utilization Contract	Commit to use?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
\$ _____	% _____			

Sub-Contractor Firm Name: _____ DBE # _____ SWaM # _____ Neither

Address: _____ City: _____ State: _____ Zip Code: _____

Phone No: _____ Email: _____ Contact Person: _____

Scope of work to be performed by the DBE: _____

Dollar Value of Subcontract	% of Utilization	Commit to use?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
\$ _____	% _____			

HRPDC/HRTPO DBE COMPLIANCE FORMS

DBE PARTICIPATION FORM-400

Contact the Procurement Officer for questions on completing this form.

Via email: djankosky@hrpdcva.gov

Or

757-420-8300

Sub-Contractor Firm Name: _____ DBE # _____ SWaM # _____ Neither

Address: _____ City: _____ State: _____ Zip Code: _____

Phone No: _____ Email: _____ Contact Person: _____

Scope of work to be performed by the DBE: _____

Dollar Value of Subcontract

% of Utilization

Commit to use? Yes No

\$ _____

% _____

Sub-Contractor Firm Name: _____ DBE # _____ SWaM # _____ Neither

Address: _____ City: _____ State: _____ Zip Code: _____

Phone No: _____ Email: _____ Contact Person: _____

Scope of work to be performed by the DBE: _____

Dollar Value of Subcontract

% of Utilization

Commit to use? Yes No

\$ _____

% _____

HRPDC/HRTPO DBE COMPLIANCE FORMS

DBE PARTICIPATION FORM-400

Contact the Procurement Officer for questions on completing this form.

Via email: djankosky@hrpdcva.gov

Or

757-420-8300

Sub-Contractor Firm Name: _____ DBE # _____ SWaM # _____ Neither

Address: _____ City: _____ State: _____ Zip Code: _____

Phone No: _____ Email: _____ Contact Person: _____

Scope of work to be performed by the DBE: _____

Dollar Value of Subcontract % of Utilization Commit to use? Yes No

\$ _____ % _____

Sub-Contractor Firm Name: _____ DBE # _____ SWaM # _____ Neither

Address: _____ City: _____ State: _____ Zip Code: _____

Phone No: _____ Email: _____ Contact Person: _____

Scope of work to be performed by the DBE: _____

Dollar Value of Subcontract % of Utilization Commit to use? Yes No

\$ _____ % _____

Additional steps Offerors will take to meet DBE Contract Goal?

ACKNOWLEDGED BY:

Offeror acknowledges and certifies that this form accurately represents the information contained herein.

Offeror's Authorized Agent Signature

Title

____/____/_____
Date

Do Not Write in Box – For Authority Use Only

APPROVED	NOT APPROVED	TOTAL % UTILIZATION % _____	TOTAL DBE COMMITMENT \$ _____
BY _____	DATE ____/____/_____	RFP DBE PARTICIPATION SCORE _____	

DOCUMENTATION OF GOOD FAITH EFFORTS-401

If the DBE goal established for this contract has not been met or HRPDC/HRTPO requests the submittal thereof, Good Faith Efforts (GFE) are required to be made and demonstrated on all applicable HRPDC/HRTPO contracts. Proposers are required to complete and submit DBE GFE Form-401 along with all required supporting GFE documentation.

Proposer: This completed form along with all required supporting documentation must be submitted with your proposal. Should the Proposer fail to comply with this request, the Proposal/bid shall be considered non-responsive.

RFP/RFQ/Bid/Solicitation/Other #: Bid/Proposal Amount \$ Date: / /

Description:

Name of Prime: has satisfied the requirements of the bid/proposal specifications for the above referenced BID/RFP/RFQ or solicitation by the HRPDC/HRTPO in the following manner: (Please check the appropriate space)

- The Bidder/Proposer is unable to meet the DBE contract goal and has completed and submitted DBE GFE Form-401 along with all required supporting GFE documentation.
The Bidder/Proposer is unable to meet the DBE contract goal, however, is committed to a minimum of % DBE utilization on this contract and has completed and submitted DBE GFE Form -401 along with all required supporting GFE documentation.

I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

PRINT NAME: SIGNATURE: TITLE:

XIV. Instructions: Please complete sections A through D and include all specific supporting documentation as outlined below. All sections of this form must be completed, or your response will be deemed non-responsive. If you feel that any section of this form is not applicable, do not respond/write "not applicable" or "NA." You must provide a written statement as to why section is not applicable to your response. Attach additional pages if necessary.

- SPECIFIC PORTIONS OF WORK IDENTIFIED FOR DBE SUBCONTRACTOR: Complete section A.
NOTIFYING CERTIFIED DBEs OF CONTRACTING OPPORTUNITIES: Please attach a copy of the announcement and written notices distributed to DBE(s). Example: Newspaper, email, mail correspondence, and community outreach notices, etc.
INITIAL SOLICITATION & FOLLOW-UP OF INITIAL SOLICITATION: Bidders/Respondents may only solicit from the State and Local Disadvantaged Business Enterprise directories located on the SBSB website.

DOCUMENTATION OF GOOD FAITH EFFORTS-401

Contact Procurement Officer for questions on completing this form.
 Via email: djankosky@hrpdcva.gov
 OR
 723 Woodlake Drive
 Chesapeake VA, 23320

A. **SPECIFIC PORTIONS OF WORK IDENTIFIED FOR DBE SUBCONTRACTOR:** You must list all selected scopes or portions of work to be performed by DBE(s) in order to increase the likelihood of meeting the contract goal for this project and the estimated value of each scope or portions of work identified. Use additional pages if warranted.

Scope or Portions of Work Identified for DBE Participation	Estimated Value	% of Contract Value
1.	\$	
2.	\$	
3.	\$	
4.	\$	
5.	\$	
6.	\$	
7.	\$	
8.	\$	
9.	\$	
10.	\$	
11.	\$	
12.	\$	
TOTAL	\$	

B. **NOTIFYING CERTIFIED DBEs OF CONTRACTING OPPORTUNITIES:** Please complete all fields below, list all sources of advertisement and outreach to DBE subs.

I. Did you attend all pre-bid and/or outreach meetings scheduled by HRPDC/HRTPO to inform DBEs of subcontracting opportunities?

YES	NO	Date of Meeting

DOCUMENTATION OF GOOD FAITH EFFORTS-401

III. **ADVERTISING SUBCONTRACTING OPPORTUNITIES:** You must identify publications in which announcements or notifications were placed and published. Include a copy of each announcement or notification.

Source of Advertising/Outreach	What subcontracting areas of work were advertised?	Date of Ad	Due Date & Time for Sub Bids		OBDE VERIFICATION
			Date	Time	
1.					
2.					
3.					
4.					

C. **INITIAL SOLICITATION & FOLLOW-UP:** You must complete all fields below, list all certified DBE firms that received telephone or email notification of work items to be subcontracted. If no response was received to the initial solicitation, you must indicate when firms received subsequent telephone or email solicitations (list delivery date, or read receipt date, and certified firm’s response). You must include copies of the physical and/or electronic notice(s) sent to certified firms. Use additional pages as warranted.

DBE FIRM & CONTACT	PHONE	Scope of Work Solicited	Date of Written Notification	Result of Initial Communication	Date of Follow-up and Method of Contact (Phone, Fax, Email)	Result of Follow-up Communication
<i>Ex. ABC Company /Jane Smith</i>	<i>(504) 123-4567</i>	<i>Legal services</i>	<i>01/01/14</i>	<i>Will submit a quote</i>	<i>01/10/14</i> <i>email</i>	<i>Quote received</i>
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						

DOCUMENTATION OF GOOD FAITH EFFORTS-401

DBE FIRM & CONTACT	PHONE	Scope of Work Solicited	Date of Written Notification	Result of Initial Communication	Date of Follow-up and Method of Contact (Phone, Fax, Email)	Result of Follow-up Communication
<i>Ex. ABC Company /Jane Smith</i>	<i>(504) 123-4567</i>	<i>Legal services</i>	<i>01/01/14</i>	<i>Will submit a quote</i>	<i>01/10/14 email</i>	<i>Quote received</i>
13.						
14.						
15.						
16.						
17.						
18.						
19.						
20.						
21.						
22.						
23.						
24.						
25.						
26.						
27.						
28.						
29.						
30.						
31.						
32.						
33.						
34.						
35.						
36.						
37.						
38.						
39.						
40.						

DOCUMENTATION OF GOOD FAITH EFFORTS-401

Contact Procurement Officer for questions on completing this form. Via email: djankosky@hrpdca.gov
OR
723 Woodlake Drive, Chesapeake VA, 23320

D. **NEGOTIATE IN GOOD FAITH:** You must provide an explanation for any rejected DBE bid or price quotation, unless another DBE is accepted for the same work.

I. Where price competitiveness is not the reason for rejection, you must complete all fields below and provide a copy of the written rejection notice including the reason for rejection to the rejected DBE firm. A meeting may be held with the rejected DBEs, if requested to discuss the rejection. Use additional pages as warranted. You must attach a copy of the notice.

DBE Subcontractor	Scope	Date rejection notice sent	Reason	Meet with DBE Sub?		
				Yes	No	Not requested

DOCUMENTATION OF GOOD FAITH EFFORTS-401

II. Where price competitiveness is the reason for rejection, you must complete all fields below and attach copies of all DBE and non-DBE bid quotes. Use additional pages as warranted.

DBE Subcontractor	Scope	Quote	Non-DBE Subcontractor	Scope	Quote	Price Variance (+/-)
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	

III. **NEGOTIATE IN GOOD FAITH:** You must provide a copy of all correspondence documenting negotiation efforts including copies of DBE and non-DBE quotes and copies of written rejection notices.

DOCUMENTATION OF GOOD FAITH EFFORTS-401

Contact Procurement Officer for questions on completing this form. Via email: djankosky@hrpdcva.gov
OR
723 Woodlake Drive
Chesapeake, VA 23320

IV. OTHER: Please provide narrative details of any other efforts your firm conducted to attain the DBE goal. Use additional pages as warranted.

Do Not Write in Box – For Authority Use Only

APPROVED	NOT APPROVED	TOTAL % UTILIZATION % _____	TOTAL DBE COMMITMENT \$ _____
BY _____	DATE ____/____/____	RFP DBE PARTICIPATION SCORE _____	

ATTACHMENT 2
SCOPE OF WORK

Municipal Financial Advisory Services

This is an RFP for on-call services which may include subsequent, different scopes of services for future projects. The [initial project](#) for which financial advisory services are needed is described in the RFP Sections I and II, above. The future services may include the following items listed below. **Municipal financial advisors that can only provide a partial scope of services are nevertheless invited to propose; however, they should clearly note the partial scope in their proposals. Inability to provide the full scope of services may be a factor that counts against that Offeror in the proposal evaluation process (see RFP Section X above).**

1. Provide advice and counsel concerning developments in financial regulation and trends in general and municipal finance in particular to enable the Southside Network Authority, its member localities to the extent their financial posture affects the Authority, and any single-purpose entities created by the Authority to remain in the best possible financial posture.
2. Provide analytical framework to assist the Authority in determining optimal financing vehicles such as short-term versus long-term financing, internal versus external financing, variable versus fixed rate, capital leasing, etc.
3. Assist in the development of financial forecasts involving operations, use of fund balance for one-time spending and capital projects, borrowed monies, impact on revenue requirements, impact on debt coverage ratios, future creditworthiness, and key financial benchmarks.
4. Collaborate effectively with consultants with expertise in operations and revenue projections to develop revenue/capital requirement models to assist in effective decision-making by senior staff and the Board of Directors.
5. Provide analyses to evaluate performance and monitor status of financing vehicles, and identify opportunities for debt re-structuring, refinancing, refunding, etc.
6. Assist the Authority in preparing information and fulfilling filing requirements as required by current and future bond covenants on an as needed basis.
7. Review capital projects contemplated by the Authority and work with the Board of Directors, Executive Director, General Counsel, and other officials in developing options, plans and strategies for financing planned capital improvements, taking into consideration costs and effects that various alternatives will have on the Authority's financial standing.
8. Develop necessary time schedules to assure that all work is initiated and completed in a timely manner, including all work associated with the issuance of bonds, notes, and other debt obligations.

9. Advise Authority officials on the bond sales climate and make recommendations with respect to whether sales of bonds should be competitive or negotiated. In the event the Authority decides to proceed with a bond issue, the Financial Advisor shall:
 - Work with the Authority and Bond counsel in structuring the bond issue;
 - Review documents and other agreements affecting the financing;
 - Oversee bond sale process ensuring the Authority secures the most favorable costs; and
 - The Authority reserves the right to select Bond Counsel, Trustee, underwriters and investment options, with assistance from the Financial Advisor.
10. Evaluate and advise on the viability of all traditional means of financing available to the Southside Network Authority.
11. Recommend timing, manner of the sale and details of bond issues, call features, flow of funds, security provisions, maturity schedules, good faith deposit checks, investment of the bond proceeds resulting from the sale, etc.
12. Assist in the preparation and development of all bond documents. This includes assisting the Authority in the preparation of requests for proposals, disclosure documents, sale documents, security documents, and other relevant marketing or bond documents; make recommendations concerning form and content to enhance marketability and comply with disclosure guidelines. This task also includes the preparation, review and printing of any offering materials, including a preliminary of final Official Statement.
13. For competitive bid bond issues, recommend bidding parameters, verify bids, and determine whether or not the bids that the Authority receives meets bid specifications.
14. Assist the Authority in the evaluation and selection of bond underwriting firms.
15. Assist the Authority in identifying those finance related federal, state, and tax issues that the Authority should monitor.
16. Routinely review the Authority's debt portfolio for potential refunding opportunities and advise Authority staff as they arise.
17. Assist and advise in the development of debt service coverage ratios, reserve funds or other structural components as requested.
18. The Financial Advisor shall perform other duties as specifically requested or as necessary during the term of the contract.
19. Assist in the review and periodic updating of Authority financial policies.

ATTACHMENT 3

SECTION I

REQUIRED GENERAL TERMS AND CONDITIONS GOODS AND NON-PROFESSIONAL SERVICES

- A. VENDORS MANUAL
- B. APPLICABLE LAWS AND COURTS
- C. ANTI-DISCRIMINATION
- D. ETHICS IN PUBLIC CONTRACTING
- E. IMMIGRATION REFORM AND CONTROL ACT OF 1986
- F. DEBARMENT STATUS
- G. ANTITRUST
- H. MANDATORY USE OF AUTHORITY FORMS AND TERMS AND CONDITIONS
- I. CLARIFICATION OF TERMS
- J. PAYMENT
- K. PRECEDENCE OF TERMS
- L. QUALIFICATIONS OF BIDDERS OR OFFERORS
- M. TESTING AND INSPECTION
- N. ASSIGNMENT OF CONTRACT
- O. CHANGES TO THE CONTRACT
- P. DEFAULT
- Q. TAXES
- R. USE OF BRAND NAMES
- S. TRANSPORTATION AND PACKAGING
- T. INSURANCE
- U. ANNOUNCEMENT OF AWARD
- V. DRUG-FREE WORKPLACE
- W. NONDISCRIMINATION OF CONTRACTORS
- X. AVAILABILITY OF FUNDS
- Y. TERMINATION OF CONTRACT
- Z. COOPERATIVE PROCUREMENT
- AA. LITIGATIONS WITH THE AUTHORITY
- BB. PRIOR DEFAULTED CONTRACTS
- CC. CRIMINAL CONVICTIONS
- DD. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH

- A. **VENDORS' MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors' Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors' Manual*. A copy of the manual is accessible on the Internet at: <http://eva.state.va.us/> under "Manuals."
- B. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in an appropriate state court of jurisdiction in the City of Chesapeake, Virginia. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **ANTI-DISCRIMINATION:** By submitting their proposals, offerors certify to the Authority that they will conform to the provisions of the *Federal Civil Rights Act of 1964*, as amended, as well as the *Americans With Disabilities Act* and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursement made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia, § 2.2-4343.1E*)

In every contract over \$10,000.00, the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of these nondiscrimination clauses.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitation placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The Contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

- D. **ETHICS IN PUBLIC CONTRACTING:** By submitting their proposals, Offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By submitting their proposals, Offerors certify that they do not, and will not during the performance of this contract, employ illegal alien workers or otherwise violate the provisions of the *Federal Immigration Reform and Control Act of 1986*.
- F. **DEBARMENT STATUS:** By submitting their proposals, Offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- G. **ANTITRUST:** By entering into a contract, the Contractor conveys, sells, assigns, and transfers to the Authority all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Authority under said contract.
- H. **MANDATORY USE OF AUTHORITY FORMS AND TERMS AND CONDITIONS FOR RFPs:** Failure to submit a proposal on the official form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Authority reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.
- I. **CLARIFICATION OF TERMS:** If any prospective Offeror has questions about the specifications or other solicitation documents, the prospective Offeror must contact, in writing, the Procurement Officer whose name appears on the face of the solicitation by the date stated for questions. Any revisions to the solicitation will be made only by addendum issued by the Procurement Officer.
- J. **PAYMENT:**
1. **To Prime Contractor:**
 - a. Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the Contract Number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
 - b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days however.
 - c. All goods or services provided under this contract or purchase order that are to be paid for with public funds, shall be billed by the contractor at the contract price.

- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of bank transfer.
- e. **Unreasonable Charges:** Under certain emergency procurements and for most time and material purchases final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Authority shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve a department of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia, SS 2.2-4363*).

2. To Subcontractors:

- a. A Contractor awarded a contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Authority for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - (2) To notify the department and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
- b. The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Authority, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U.S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Authority.

K. **PRECEDENCE OF TERMS:** Paragraphs A-J of these General Terms and Conditions shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall take precedence.

L. **QUALIFICATIONS OF OFFERORS:** The Authority may make such reasonable investigations as deemed proper and necessary to determine the ability of the Offeror to perform the services/furnish the goods and the Offeror shall furnish to the Authority all such information and data for this purpose as may be requested. The Authority reserves the right to inspect Offeror's physical facilities prior to award to satisfy questions regarding the Offeror's capabilities.

The Authority further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such Offeror fails to satisfy the Authority that such Offeror is properly qualified

to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

- M. **TESTING AND INSPECTION:** The Authority reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the Contractor in whole or in part without the advance written consent of the Authority.
- O. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:
- a. The parties may agree, in writing, to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
 - b. The Procurement Officer may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as a result of such order and shall give the Procurement Officer a credit of any savings. Said compensation shall be determined by one of the following methods:
 1. By mutual agreement between the parties in writing; or
 2. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to the Procurement Officer's right to audit the Contractor's records and/or to determine that correct number of units independently; or
 3. By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the Procurement Officer with all vouchers and records of expenses incurred and savings realized. The Procurement Officer shall have the right to audit the records of the Contractor as deemed necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Procurement Officer within thirty (30) days from the date of receipt of the written order from the Procurement Officer. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving dispute provided by the Disputes Clause of this contract or, if there is none, in accordance with the dispute provisions of the Commonwealth of Virginia *Vendors' Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Procurement Officer or with the performance of the contract generally.

- P. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Authority, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies with the Authority may have.
- Q. **TAXES:** Sales to the Authority are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this contract shall usually be free of Federal excise and transportation taxes. The Authority's tax exemption registration number is: 85-1246623.
- R. **USE OF BRAND NAMES (This section only applies to the procurement of goods):** Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict Offerors to the specific brand, make or manufacturer names, but conveys the general style, type, character, and quality of the article desired. Any article which the Authority, in its sole discretion, determines to be the equivalent of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The Offeror is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature catalog cuts and technical detail to enable the Authority to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the Offeror clearly indicates in its proposal that the product offered is an equivalent product, such proposal will be considered to offer the brand name product referenced in the solicitation.
- S. **TRANSPORTATION AND PACKAGING (This section only applies to the procurement of goods):** By submitting their proposals, all Offerors certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.
- T. **INSURANCE:** By signing and submitting a proposal under this solicitation, the Offeror certifies that if awarded the contract, it will have the following insurance coverages at the time the contract is awarded. The Offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

Coverages afforded under the required policies listed below shall not be canceled by the Contractor or allowed to lapse or expire. However, in the event that any insurance coverage required under this Agreement is canceled by the insurance company or lapses due to no fault of the Contractor, Contractor shall (i) provide the Authority with not less than thirty (30) calendar days prior written notice that said insurance policy has lapsed or has been canceled due to no fault of Contractor and (ii) restore said insurance policy with the same insurance company or obtain a replacement insurance policy that satisfied the insurance obligations required in this Agreement within thirty (30) calendar days from the date of any notice to Contractor that its insurance policy has been canceled or has lapsed.

The Authority must be named as an additional insured on the insurance certificate reflecting Commercial General Liability and other insurance coverages.

INSURANCE COVERAGES AND LIMITS REQUIRED:

- a. Workers' Compensation – Statutory requirements and benefits.
- b. Employer's Liability - \$1,000,000.
- c. Commercial General Liability: A minimum of \$1,000,000. Combined single limit. Commercial General Liability is to include Premises/Operations Liability, Products and Completed Operations Coverage (*to extend for 2 years past the work completion date*).
- d. Automobile Liability - \$1,000,000 – Combined single limit. (*Only used if motor vehicle is to be used in the contract.*)
- e. Professional Liability Insurance: The Consultant shall maintain during the life of this contract such Professional Liability Insurance, *including Bodily Injury and Property Damage if excluded in Commercial General Liability coverage required above*, as to protect the Consultant, the Consultant staff, or by any subcontractor or anyone directly or indirectly employed by either of them against claims for damages, including protection of the Authority. The minimum acceptable limits of liability to be provided by such Professional Liability Insurance shall be as follows:
 - a. \$1,000,000 each incident
 - b. \$2,000,000 aggregate

NOTE: If a Contractor for professional services states there is property damage and bodily injury coverage equivalent to above within the Professional Liability policy that shall be specifically stated on the Insurance Certificate form.

- U. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract over \$25,000, as a result of this solicitation, the Procurement Office will publicly post such notice on the Authority's websites (www.hrpdvca.gov and www.hrtpo.org) for a minimum of 10 days.
- V. **DRUG-FREE WORKPLACE:** During the performance of this contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connections with a specific contract awarded to a Contractor, the employees of which are

prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- W. **NONDISCRIMINATION OF CONTRACTORS:** A Bidder, Offeror, or Contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, or disability, or against faith-based organizations. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the Authority shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.
- X. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the Authority shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
- Y. **TERMINATION OF CONTRACT:** The Authority may terminate the contract for cause or for convenience after giving thirty (30) days' notice in writing to the Contractor. The written notice shall state whether the termination is for convenience or cause.

Termination for Cause: If the Contractor should breach the contract or fail to perform the services required by the contract, the Authority may terminate the contract for cause by giving written notice or may give the Contractor a stated period of time within which to remedy its breach of contract by delivering a written cure notice to the Contractor. If the Contractor shall fail to remedy the breach within the time allotted by the Authority, the contract may be terminated by the Authority at any time thereafter upon written notice to the Contractor or, in the alternative, the Authority may give such extension of time to remedy the breach as the Authority determines to be in its best interest. The Authority's forbearance by not terminating the contract for a breach of contract shall not constitute a waiver of the Authority's right to terminate nor acquiescence in future act or omissions by the Contractor of a like nature. If the contract is terminated for cause, breach of contract or failure to perform, the Contractor may be subject to a claim by the Authority for the costs and expenses incurred in securing a replacement contractor to fulfill the obligations of the contract. In the event a Cure Notice is required, the Authority will use the address provided to the Authority in bids or proposals. It shall be the Contractor's responsibility to notify the Authority in writing within 10 days of knowing a change of address. The written notice shall include the Authority's contract number and the effective date of the address change.

In the event the Contractor breaches the contract or fails to perform the services required by the contract, in addition to terminating this contract for cause, the Authority reserves the right, in its sole discretion, to terminate for cause any other open contract the Contractor has with the Authority.

Termination for Convenience: The contract may be terminated by the Authority in whole or in part for the convenience of the Authority without a breach of contract by delivering to the Contractor a written notice of termination specifying the extent to which performance under the contract is terminated and the effective date of the termination. Upon receipt of such a notice of termination, the Contractor must stop work, including but not limited to work performed by

subcontractors and consultants, at such time as to the extent specified in the notice of termination.

If the contract is terminated in whole or in part for the convenience of the Authority, the Contractor shall be entitled to those fees earned for work done prior to the notice of termination and thereafter shall be entitled to any fees earned for work not terminated, but shall not be entitled to lost profits for the portions of the contract which were terminated. The Contractor will be compensated for reasonable costs or expenses arising out of the termination for the convenience of the Authority for delivery to the Authority of all products of the services for which the Contractor has or will receive compensation.

Delivery of Materials: Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver to the Authority all products or services for which the Contractor has been or will be compensated. Unless otherwise agreed to in writing, the Contractor shall deliver the materials to the Authority within thirty (30) days of the Notice of Termination of the Contract. Failure to do so may result in action for “breach of contract” or “failure to perform.”

Compensation Due the Contractor: Upon such termination, the Contractor shall be entitled to the compensation accrued to the date of termination. Payment of the balance of the accrued compensation shall be dependent on the Contractor providing the required project material to the Authority. Said fees which have been earned shall be billed to the Authority in accordance with the normal billing process, but in no case later the sixty (60) days after the last work is performed. Any termination by the Authority for default, found by a court of competent jurisdiction not to have been justified as a termination for default, shall be deemed a termination for the convenience of the Authority.

The Contractor shall submit invoices for all such amounts in accordance with the normal billing process, but in no event later than sixty (60) days after all services are performed. All amounts invoiced are subject to deductions for amounts previously paid. All payments due the Contractor under this contract are subject to appropriation by the granting agency.

- Z. **COOPERATIVE PROCUREMENT:** Procurement is being conducted pursuant to Section 2.2-4304 of the VPPA. Therefore, the Offeror agrees that it will contract with any other public agency or body in the Commonwealth of Virginia who so desires, to permit those public agencies or bodies to purchase at contract prices, in accordance with the terms, conditions and specifications of any contract resulting from this solicitation. The Offeror shall deal directly with each public agency or body, in a separate contract between those two entities, in regard to scope of work, order placement, delivery, invoicing and payment. The Authority shall not be responsible or liable for any costs, expenses, or any other matters of any kind to either Offeror or such other public agency or body seeking to obtain services pursuant to cooperative procurement. Such other public agency or body shall be responsible for the administration of its individual contract with Offeror.
- AA. **LITIGATION WITH THE AUTHORITY:** The Authority, in its sole discretion, may choose not to make an award to an Offeror who is in litigation with the Authority, one or more of its member localities, the Hampton Roads Planning District Commission (HRPDC), or the Hampton Roads Transportation Planning Organization (TPO) at the time of proposal evaluation. This provision also applies if any parent company, principal, officer, or wholly owned subsidiary of the Offeror is in litigation with the Authority at the time of the proposal evaluation.

- BB. **PRIOR DEFAULTED CONTRACTS:** The Authority, in its sole discretion, may choose not to make an award to an Offeror who has previously defaulted on a contract with the Authority. This provision also applies any parent company, principal, officer, or wholly owned subsidiary of the Offeror has previously defaulted on a contract with the Authority.
- CC. **CRIMINAL CONVICTIONS:** The Authority, in its sole discretion, may choose not to make an award to an Offeror if any principal, officer, director, or staff member of the firm assigned to work under a contract awarded pursuant to this solicitation has been convicted of any felony or of a misdemeanor involving moral turpitude in the past ten (10) years.
- DD. **AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** A Contractor organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

APPENDIX A

SECTION II

**SPECIAL TERMS AND CONDITIONS
GOODS AND NON-PROFESSIONAL SERVICES**

- A. ADVERTISING
- B. AUDIT
- C. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION
- D. CONTINUITY OF SERVICES
- E. IDENTIFICATION OF BID/PROPOSAL ENVELOPE
- F. INDEFINITE DELIVERY/INDEFINITE QUANTITY
- G. INDEMNIFICATION
- H. MINORITY/WOMEN-OWNED BUSINESSES
- I. PROPOSAL ACCEPTANCE PERIOD
- J. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER

- A. **ADVERTISING:** In the event a contract is awarded for services resulting from this proposal, no indication of such contract or the provision of services to the Authority will be used in the contractor's literature or advertising without prior written permission.
- B. **AUDIT:** The Contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Authority, whichever is sooner. The Authority auditors shall have full access to the right to examine any of said materials during said period.
- C. **CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION:** Contractor assures that information and data obtained as to personal facts and circumstances related to patients or clients shall be collected and held confidential, during and following the term of this agreement, and shall not be divulged without the individual's and the Authority's written consent and only in accordance with federal and state Code. Contractors who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the Authority of any breach or suspected breach in the security of such information. Contractors shall allow the Authority to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.
- D. **CONTINUITY OF SERVICES:**
1. The Contractor recognizes that the services under this contract are vital to the Authority and must be continued without interruption and that, upon contract expiration, a successor, either the Authority or another contractor, may continue them. The Contractor agrees:
 - a. To exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.
 - b. To make all Authority owned facilities, equipment, and data available to any successor at an appropriate time prior to the expiration of the contract to facilitate transition to successor.
 - c. That the Procurement Officer shall have final authority to resolve disputes related to the transition of the contract from the Contractor to its successor.
 2. The Contractor shall, upon written notice from the Procurement Officer, furnish phase-in/phase-out services for up to ninety (90) days after this contract expires and shall negotiate in good faith a plan with successor to execute the phase-in/phase-out services. This plan shall be subject to the Procurement Officer's approval.
 3. The Contractor shall be reimbursed for all reasonable, pre-approved phase-in/phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in/phase-out operations) and a fee (profit) not to exceed a pro-rate portion of the fee (profit) under this contract. All phase-in/phase-out work fees must be approved by the Procurement Officer in writing prior to commencement of said work.

E. **IDENTIFICATION OF PROPOSAL PACKAGE:** If a special envelope is not furnished, or if return in the special envelope is not possible, the signed bid/proposal should be returned in a separate envelope or package, sealed and identified as follows:

From _____	_____	_____
Name of Offeror	Due Date	Time
_____		_____
Street or Box Number	RFP No.	
_____		_____
City, State, Zip Code	RFP Title	

Name of Procurement Officer: _____

The envelope/package should be addressed as directed on Page 2 of this solicitation.

If a proposal is mailed, the Offeror takes the risk that the package, even if marked as described above, may be inadvertently opened and the information compromised which may cause the proposal to be disqualified. Proposals may be hand delivered to the designated location in the office issuing the solicitation. No other correspondence or other proposals should be placed in the package.

F. **INDEFINITE DELIVERY/INDEFINITE QUANTITY (IDIQ) (This section only applies if IDIQ terms and conditions are so provided the request for proposal):** This is an indefinite delivery/indefinite quantity solicitation for the goods/services specified and effective for the period stated. Under any resulting contract, the Authority shall order the goods/services specified in the price schedule and the contractor shall furnish them when ordered.

The contractor shall complete any order issued during the effective period of this contract and not completed within the contract period within the time specified in the order. The contract shall govern the contractor's and Authority's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; that the Contractor shall not be required to make any delivery under this contract after thirty (30) days of the expiration of the contract.

G. **INDEMNIFICATION:** Contractor agrees to indemnify, defend and hold harmless the Authority, its officers, agents, and employees for any and all damages arising out of the negligent acts, errors or omissions, recklessness or intentionally wrongful conduct of the Contractor in performance of the contract.

H. **MINORITY/WOMEN-OWNED BUSINESSES SUBCONTRACTING AND REPORTING:** Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such business to minority and/or women-owned businesses. Names of firms are available through the Commonwealth's eVA procurement system. When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the Procurement Officer, on a quarterly basis, the following information: name of firm, phone number, total dollar amount subcontracted and type of product/service provided.

Disadvantaged Business Enterprises and Disadvantaged Minority Business Enterprises:

The recipient in accordance with *Title VI of the Civil Rights Act of 1964, 78 stat. 252 US C 2000d-2004d-4* and *Title 49 CFR Department of Transportation, Subtitle A, Office of the Secretary Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation*, issued pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation, and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.

It is the policy of the Authority that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded consultant contracts. The Commonwealth's new Department of Small Business and Supplier Diversity (SBSD) has encompassed both SWaM (Small, Women-owned, and Minority-owned Business) and the DBE (Disadvantaged Business Enterprise). This Department can be found at www.dmbc.virginia.gov. This department will coordinate certification for these types of vendors. Consultants are encouraged to take all necessary and reasonable steps to ensure that SBSBs have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider DBEs as potential sub-consultants. The consultant is encouraged to contact SBSBs to solicit their interest, capability and qualifications. Any agreement between a consultant and an SBSE whereby the SBSB promises not to provide services to other consultants is prohibited. The Authority believes that these services support 6% SBSB participation. If a SBSB is not certified, the DBE must become certified (with the Virginia Department of Minority Business Enterprise) prior to your response being submitted. If a SBSB is the prime consultant, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by DBE sub-consultants. SBSB prime consultants are encouraged to make the same outreach efforts as other consultants. SBSB credit will be awarded only for work actually being performed by the SBSB themselves. When a SBSB prime consultant, or sub-consultant, subcontracts work to another firm, the work counts toward DBE goals only if the other firm is itself a SBSB. A SBSB must perform or exercise responsibility for at least 30% of the total cost of the contract with its own force.

The Authority actively solicits SBSBs (including Small, Women- and Minority-owned (SWaM) and DBE (Disadvantaged Business Enterprise)) businesses to respond to all Invitations for Bids and Requests for Proposals.

- I. **PROPOSAL ACCEPTANCE PERIOD:** Any proposal in response to this solicitation shall be valid for ninety (90) days. At the end of the 90 days the proposal may be withdrawn at the written request of the Offeror. If the proposal is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.
- J. **STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:** Pursuant to *Code of Virginia §2.2-4311.2(b)*, an Offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its proposal the identification number issued to it by the **State Corporation Commission (SCC)**. Any Offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its proposal a statement describing why the Offeror is not required to be so authorized (**Form 7**).