**California High-Speed Rail Authority**

# Request for Qualifications for

# Right of Way Engineering and Surveying Services

## RFQ No. HSR 13-07

**July 16, 2013**

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# 1 Overview and General Information

The following list provides a general overview of information related to the subject of this Request for Qualifications (RFQ):

- The California High-Speed Rail Authority (Authority) is issuing this RFQ to receive Statements of Qualifications (SOQs) from qualified firms (Contractor(s)) to provide Right of Way (ROW) Engineering and Surveying Services on a task order basis, for a total of approximately 600 parcels.
- This procurement consists of evaluating SOQs in response to this RFQ with the intent to award contracts to successful, responsive, responsible Contractor(s) whose qualifications conform to the solicitation and are considered the most qualified by the Authority. Up to four (4) Contractors will be selected, as necessary.
- The selected Contractor(s) may be working with the Federal Railroad Administration (FRA), Surface Transportation Board (STB), Public Works Board (PWB), California Department of Transportation (Caltrans), Department of General Services (DGS), other partnering agencies and Contractor(s) on the California High-Speed Rail Project under the direction of the Authority's Director of Real Property.
- The contract period will start with a Notice to Proceed (NTP) that is anticipated to extend up to June 30, 2016.
- The estimated dollar value for this contract may range from between One Million Dollars ($1,000,000) to One Million, Five Hundred Thousand Dollars ($1,500,000).
- The RFQ solicitation shall follow the process in California Code of Regulations, Title 21, Division 6, section 10000.1 et seq., based on the factors/criteria contained in

- Attachment B and Attachment C.
- Contractors are required to comply with the Authority's Revised Small and Disadvantaged Business Enterprise Program for Professional Services Contracts, August 20, 2012, and submit Form A and Cert. 2, thereby making a commitment to the requisite participation by Small, Disadvantaged, and Disabled Veteran Business Enterprises.
- Negotiations shall be held with the top ranked Contractor(s).
- Contractor(s) receiving contracts pursuant to this RFQ will be required to maintain a project office in either Fresno, Kern, Madera, Merced, and Tulare Counties in which work will be performed. All travel expense reimbursement will be calculated based on that project office location. Contractor(s) will not be directly reimbursed for occupancy costs of the project office nor for web hosting or license fees for software required by the project other than as part of the Contractor's general overhead.
- The RFQ will be available in electronic format only on the State's Contract Register at (www.bidsync.com) and a link can be found on the Authority's website (www.hsr.ca.gov).

All questions regarding this RFQ must be submitted in writing[1] through (www.bidsync.com) by 4:00PM on July 30, 2013 for the benefit of all participants.

## 1.1 Definitions

Definitions relating to this solicitation are as follows:

- **ROW Engineering and Surveying Contractor(s) –** The Contractor(s) providing full ROW engineering and surveying services for RFQ No. HSR 13-07.
- **ROW Engineering and Surveying Services –** The scope of work described in Section 3 of this RFQ.
- **Design-Builder (DB) –** The Design-Builder performing the design and construction work for a given Construction Package.
- **Program Management Team (PMT) –** The Authority's representative overseeing the Real Property acquisition, relocation, and ROW Engineering.
- **Small Business Concern –** For the purposes of this solicitation and in order to be as inclusive as possible to small businesses, the Authority recognizes a Small Business Concern to include certified Small Businesses (SB), Disadvantaged Business Enterprises (DBE), Disabled Veteran Business Enterprises (DVBE), and Microbusinesses, as set forth below:

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[1] *Consultant(s) intending to submit SOQs for this contract shall not contact or discuss any items related to this process with any Board member or Authority staff other than the Authority's Contract Manager, Ms. Tammy Thomas. Failure to comply with this communication prohibition shall result in disqualification.*

- **Disadvantaged Business Enterprise –** A for-profit small business concern that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged. In the case of a corporation, 51 percent of the stock is owned by one or more such individuals; and, whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it and has been certified as Disadvantaged in accordance with 49 CFR, Part 26. The Authority recognizes DBE certifications issued by the California Unified Certification Program (CUCP). Refer to the Authority's Small and Disadvantaged Business Enterprise Program for the Roster of Certifying Agencies.
- **Disabled Veteran Business Enterprise –** A for-profit small business concern that is at least 51 percent owned by a veteran of the United States Military who has at least a 10 percent service-connected disability. To qualify as a DVBE, the business must have received the appropriate certification issued by the California Department of General Services.
- **Microbusiness –** A for-profit small business concern with gross annual receipts of less than $3,500,000; or, if the small business is a manufacturer with 25 or fewer employees. The Authority recognizes Microbusiness certifications issued by the California Department of General Services.
- **Small Business** – A for-profit small business that meets the requirements and eligibility criteria set forth by the U.S. Small Business Administration and California Department of General Services for certification as a Small Business. Under the Department of General Services definition, a Small Business is independently owned and operated, with its principal office located in California, and with owners living in California, has grossed $14 million or less over the previous three tax years, and is not dominant in its field of operations. This certification is issued by the California Department of General Services. Statement of Qualifications Submittal Information

## 1.2 Statement of Qualifications Submittal Information

A SOQ submitted in response to this RFQ shall include one (1) original and six (6) hard copies as well as an electronic version in pdf format. The SOQ must be received no later than 4:00 PM, Thursday, August 15, 2013, addressed as follows:

MAILED OR HAND-DELIVERED TO:

California High-Speed Rail Authority
Office of Contracts and Procurement
Attention: Ms. Tammy Thomas, Contract Manager
770 L Street, Suite 800
Sacramento, CA 95814
Phone: (916) 403-2676
Email: contract-submittals@hsr.ca.gov

The following information must be placed on the lower left corner of the submittal shipping packages:

RFQ No.: HSR 13-07

California High-Speed Rail Authority
Right of Way Engineering and Surveying Services Statement of Qualifications

Contractor(s): _____

### 1.2.1 Late Submittals

In accordance with California Public Contract Code 10344, Statements of Qualifications received after the specified date and time are considered late and will not be accepted. There are no exceptions to this law. Postmark dates of mailing, E-mail, and facsimile (FAX) transmissions are not accepted under any circumstances and are not acceptable toward meeting the submission deadline for proposal delivery. A SOQ is late if received any time after 4:00 PM on Thursday, August 15, 2013. A SOQ received after the specified time will not be considered and will be returned to the Contractor(s) unopened.

### 1.2.2 Modification or Withdrawal of SOQs

Any SOQ received may be withdrawn or modified by the Proposer before the SOQ submittal date by written request to the Authority.

**Table 1: Key RFQ Dates**

| Key Dates | Activity Description |
|---|---|
| July 16, 2013 | Final RFQ advertised and issued to prospective respondents. |
| July 24, 2013,<br>9:30-11:30am | A pre-bid conference will be held for this RFQ<br>Department of Water Resources Auditorium<br>1416 9th Street<br>Sacramento, CA 95814 |
| July 30, 2013 | Written question submittal deadline |
| August 2, 2013 | Respond to written questions |
| August 15, 2013 | SOQs due to Authority's office by 4:00 PM Pacific Time. |
| August 28-29, 2013 | Interviews held in Sacramento, CA |
| September 3, 2013 | Notice of Selection |
| September 19, 2013 | Negotiation with top ranked firm(s) |
| October 10, 2013 | Proposed Agreement Start Date |
| June 30, 2016 | Proposed Agreement End Date |

# 2 Background

Established in 1996 by State legislation, the California High-Speed Rail Authority (Authority) has a statutory mandate to plan, build, and operate a high-speed rail system coordinated with California's existing transportation network, particularly intercity rail and bus lines, commuter rail lines, urban rail transit lines, highways, and airports.

The goal is to increase and maintain California's mobility, vital to our economy's health, as the population grows from 38 million today to a projected 50 million by 2035. The planned system length is approximately 800 miles from Sacramento to San Diego, with nine segments running through the Bay Area, Central Valley, Inland Empire, and Southern California. The train will travel at speeds of up to 220 miles per hour with approximately 15 stops. A key performance goal is to make the trip from San Francisco to Los Angeles in less than 2 hours and 40 minutes.

The Authority intends to finance the First Construction Segment of the California High-Speed Train System with State and Federal funding, provided by the Federal Railroad Administration (FRA), and including funding made available through the American Recovery and Reinvestment Act of 2009 (ARRA). The Authority will act as the FRA-designated recipient for federal transportation funds.

# 3 Description of Work

The purpose of the Right of Way Engineering and Surveying Services role is to enhance the Authority's ability to effectively acquire the necessary ROW to construct and maintain the High Speed Train project. The Right of Way Engineering and Surveying Services Contractor(s) will provide the personnel and expertise to prepare the appraisal and ROW maps and other requested services under the direction of the Authority's Director of Real Property or their representative. The PMT provides the program level framework, expertise, and oversight to guide the Right of Way Engineering and Surveying Services as well as to ensure Small Business (SB) participation in the delivery of the System.

## 3.1 General Scope of Services

### 3.1.1 Description of Services

This general scope of services describes the services which the Right of Way Engineering and Surveying Services Contractor(s) must be prepared to provide if identified in a Task Order issued by the Authority.

The selected Contractor(s) shall provide a team of qualified personnel to provide Right of Way Engineering and Surveying Services. This team shall be responsible for performing or overseeing all of the duties necessary for the preparation of Right of Way Engineering and Surveying Services based on the specific and individual Task Order(s), which may include, but are not limited to the following:

#### 3.1.1.1 Administration and Project Management

The Contractor(s) shall manage a team capable of undertaking work assignments identified in the scope of work for the specific Task Order(s). All Task Order(s) performed by the team shall be directed by the Contractor(s) and coordinated with Authority staff and PMT.

#### 3.1.1.2 Progress Reports

Subject to the specific and individual task order(s), the Contractor(s) shall prepare progress reports on a weekly basis that include project schedules, progress to date identified by task, description of the progress, including identification of problems, proposed solutions and revised completion dates if necessary and earned value reporting. The progress reports shall also indicate, in percentage form for each task, the amount of work completed and the budget expended to date, and anticipated cost overruns. Each progress report is due to the Authority within five (5) working days after the end of the reporting period as determined by the Authority.

The Contractor's Project Manager is required to coordinate as needed with the Design-Builder to mitigate against any changes in construction schedule or right-of-way acquisition schedule. Each party shall proactively work together to reduce overall schedule risk when changes occur.

The Contractor's Project Manager shall manage the schedule for the Task Order(s) with monthly schedule updates submitted with the Progress Reports.

The Contractor's Project Manager shall meet monthly with the Authority or as requested by the Authority for progress update, resolution discussion, direction, and planning purposes.

#### 3.1.1.3 Information and Project Tracking Systems

Subject to specific and individual task order(s), Contractor(s) shall update the Authority's database with progress data on a schedule and format to be determined by the Authority. The Authority database will be developed by the Authority in Microsoft Structured Query Language (SQL) or such other software as appropriate, and use a collaborative document control within the Authority to interface with the data and documents.

#### 3.1.1.4 Provide a Final Contract and Task Order Report(s)

Subject to specific and individual task order(s), the final report for this contract or task order shall summarize the work that took place under the applicable task order(s). The format and content shall be specified by the Authority. A draft final report must be delivered to the Authority from the contractor at least 90 days before the termination date of the applicable task order. Once agreement has been reached on the draft final report, the Contractor shall submit the final report accompanied by the final invoice for each task order. If multiple task orders are issued under this contract the Contractor shall compile a final report inclusive of all final task order reports and submit the final report accompanied by the final invoice for the last completed task order, prior to the contract expiration date.

#### 3.1.1.5 Participate in a Final Meeting

Meet with the Authority to discuss the overall contract and its closeout. The final meeting must be completed during the term of the applicable individual task order(s). The Authority will determine the appropriate meeting participants.

Contractor will prepare written documentation of the meeting agreements, and a schedule for completing closeout activities.

#### 3.1.1.6 Technical Scope of Work

Contractor is to provide Right of Way Engineering and Surveying Services in support of current and future CHSRA projects in the State of California. These services will be issued through task orders as defined and issued by the Authority, with specific services identified in each individual task order. Such services may include, but are not limited to, the following:

A. Contractor shall provide Right of Way Engineering and Surveying Services including, but not limited to:
   i. Boundary Maps,
   ii. Monumentation Maps,
   iii. Survey Control Maps,
   iv. Records of Survey,
   v. Lot Line Adjustments,
   vi. Subdivision Maps,
   vii. Legal Descriptions and Plats,
   viii. Parcel Maps,
   ix. Appraisal Maps,
   x. Certificates of Compliance,
   xi. Staking/Marking of parcels, ROW for appraisal and utility potholing purposes, and
   xii. Resolution of Necessity Package and;
   xiii. Other ROW engineering as necessary.
B. Contractor shall prepare Boundary, Monumentation, and Survey Control Maps showing all parcels and easement boundaries and their relationship to the land net monuments used to define them. These maps shall conform to Caltrans ROW Engineering Procedures and Drafting Manual in regard to content and appearance.
C. Contractor shall utilize appropriate land surveying and land title practices to:
   i. Establish all property and easement boundaries within and overlapping the project area.
   ii. Perform site reconnaissance and monument recovery.

iii. Establish and re-establish all monumentation required by State law and local regulations.

iv. File a Record of Survey, if necessary, to comply with the Land Surveyors Act.

v. The preparation, filing, and associated fees will be the responsibility of Contractor. All data, maps, and documents produced by the Contractor shall be subject to approval and acceptance by the Authority, and in certain cases, Caltrans. In the event of non-acceptance due to errors or omissions, Contractor shall have seven calendar days to make corrections and return maps and documents to the Authority. Final acceptance will occur only after the work product has been determined to conform to the contract scope of work and task order requirements.

D. All surveying and mapping work affecting the State of California ROW at any location, or along any route, shall be in accordance with the State law and local regulation and procedures and instructions contained in the Caltrans Right of Way Manual and Caltrans Survey Manual (Manuals). All ROW acquired by the Authority for the State Highway System projects shall be subject to acceptance and transfer to the State.

i. The recovery, reestablishment, and survey of points which control existing State ROW lines, or other pertinent boundary lines and centerlines, and the monumentation thereof

ii. The survey and establishment of existing State ROW lines and the monumentation thereof

iii. The preservation of existing monumentation threatened by construction

iv. The establishment of fee ownership boundaries and easement boundaries for possible State ROW acquisition

v. The survey and establishment of new State ROW lines and the monumentation thereof

vi. Production of Records of Survey, ROW maps (various types), land descriptions and reports, together with supporting documentation of all work performed and in accordance with applicable laws and the manuals

E. Contractor shall appoint a Project Manager, who is a licensed Land Surveyor (LS) or Licensed Civil Engineer (LCE), authorized to practice Land Surveying by the State of California. The Contractor's Project Manager will be responsible for all work to be performed by the Contractor(s) for the Authority.

F. Deliverables shall typically consist of three (3) original hard copies and one (1) electronic pdf.

G. If legal issues exist during the course of an assignment, Contractor(s) shall request legal opinion. All legal opinions shall be rendered by the Authority's chief legal counsel.

H. Contractor(s) shall utilize the Authority's Contractor(s) supplemental work required for effective deliver of Contractor(s) services to the Authority. Fees charged by the Authority's Contractor(s) shall be paid directly by the Authority.

I. Work and assignments shall be awarded to each Contractor(s) as determined by the Authority.

Any and all work submitted by the Contractor shall be reviewed by the Contractor's Project Manager, and be complete and final in strict accordance with the California Board of Professional Engineers and Land Surveyors Rule 476, Subsection (e), and signed and sealed in accordance with Section 8761 of the Professional Land Surveyors Act.

As it pertains to projects affecting the State Highway System, work shall not be considered complete until Caltrans has approved the work for inclusion into the ROW Engineering files. Caltrans does not assume responsibility for Contractor(s) work after inclusion in to the ROW Engineering files. Contractor(s) shall retain responsibility for all work performed and submitted.

Lot Line Adjustments, Parcel Maps, Surveys, and Legal Descriptions work required under the contract scope of work may include field surveying, legal descriptions, map preparation, and the marking of properties for utility potholing, appraisal, and boundary determination purposes or other ROW engineering required for transportation purposes. Surveys prepared in connection with Authority/Caltrans projects shall be performed in accordance with current Manuals.

Survey points, lines, and monuments shall be established, marked, identified, and referenced. If required, Records of Survey shall be prepared and filed in accordance with Chapter 15 (Land Surveyors Act) of the Business and Professional Code. A copy of the original survey documents resulting from contract work, which may include field notes, adjustment calculations, final results, and intermediate documents, may be required to be delivered and will become property of the Authority.

### 3.2 Guidelines, Standards, and Requirements

Preparation of maps and documents will generally follow Caltrans ROW Manual, Chapter 6 as required. The Caltrans ROW Manual shall be utilized for direction and guidance for all work performed under any Task Order until such time as the Authority's ROW Manual is published, except as provided for in the most current version of Authority policy and/or procedure.

## 4 Statement of Qualifications Requirements

The following summarizes the content and organization of the SOQ. In addition to the information described below, the Authority may require confirmation of information furnished by a Contractor, require additional information from a Contractor concerning its SOQ, and require additional evidence of qualifications to perform the work described in this RFQ.

### 4.1 General Requirements

The SOQ shall be typewritten; and shall be manually signed. Scanned or faxed responses are not authorized.

The SOQ shall comply with the following requirements:

- Documents shall be prepared in single-spaced type, 12 point font, on 8-1/2" x 11" sheets printed double-sided. A page is considered to be a single side of an 8-1/2" x 11" sheet. Should the Contractor wish to submit materials that benefit from larger format paper sizes such as charts, drawings, graphs, and schedules then they should do so sparingly.
- Pages shall be numbered at the bottom to show the page numbers and total number of pages in the response; (e.g., Page 1 of 10, Page 2 of 10, etc.).
- The SOQ shall be no more than 30 pages in length exclusive of resumes, as required by Section 4.9 and the Forms and Certifications).
- Brochures and miscellaneous materials not specifically requested will not be evaluated.
- Unnecessarily elaborate responses and/or lengthy presentations are not desired or required by the Authority.
- Unless otherwise provided, all names and applicable titles shall be typed or printed below the signatures.
- Forms A-B and Certification Nos. 1-10 must be signed and included. If erasures or other changes appear on the forms, each erasure or change shall be initialed and dated by the person signing the response.

The SOQ shall be divided into sections as described below:

- A blank page should precede each section with an index tab extending beyond the far right side of the page; these blank pages will not be counted within the page count.
- The index tab should have the appropriate section number typed thereon.
- At a minimum, the items described below in this section shall be addressed.

## 4.2 Transmittal Letter

The SOQ shall be delivered with a Transmittal Letter that must be signed by an official authorized to bind the Contractor contractually and shall contain a statement that indicates the SOQ is complete and accurate. The Transmittal Letter shall also contain the following:

- A statement representing that Contractor has the ability to obtain the insurance coverage and licensing required for the contract.
- A statement committing that the Key Personnel designated in the SOQ or their approved substitutes shall be available to serve in the roles described.
- A statement indicating whether Contractor has disclosed any conflicts in Form B.

The letter accompanying the SOQ shall provide the name, title, address, telephone number, and email address of those individuals authorized to negotiate and contractually bind the Contractor.

The Transmittal letter does not count against the page limitation.

## 4.3 Executive Summary

The Executive Summary shall consist of a two (2) to three (3) page summary of the key points of the SOQ. The Contractor should convey a thorough understanding of the Right of Way Engineering and Surveying Services for the various tasks and services and the work program required. The work program should be summarized at a high level with supporting references made to prior work experience of a similar nature. The Contractor should highlight innovative and cost effective techniques used on other assignments and specific ideas envisioned for this assignment. The Executive Summary does count against the SOQ page limit.

## 4.4 Project Understanding

Provide a detailed discussion of the understanding of the project and how the Right of Way Engineering and Surveying Services function adds value and works toward the goal of achieving optimal efficiency for delivering Right of Way Engineering and Surveying Services to the project.

## 4.5 Organization and Management Plan

Describe the composition of the Right of Way Engineering and Surveying Services and how activities will be assigned. Discuss how mobilization will be accomplished. Submit an organization chart indicating specific personnel nominations for primary and technical support positions. Describe the format to be used to report findings and any other deliverables anticipated as part of the scope of services.

Provide resumes in the same format for all personnel positions identified in the Organization and Management Plan. Resumes should be no longer than two (2) pages, and should be keyed to the respective positions on the organization chart and presented in such a way as to highlight the experience on projects or assignments of a similar nature. Resumes shall demonstrate that the individuals proposed have the appropriate licenses or qualifications for the relevant roles including information regarding California professional licenses. The resumes must include summary chronologies of employment history including dates and title at each position. The resumes should be preceded with a content sheet showing the resumes and keying them to the organization chart.

## 4.6 Work Program Narrative with Work Breakdown Structure

Provide a work program narrative and a basic Work Breakdown Structure (WBS). Discuss in general the expected work elements based on the activity as described in the RFQ Scope of Services. Describe generally the accomplishments that can be achieved. Tie the narrative to a basic WBS that can be readily used or converted to the contractual work scope. Describe Contractor's approach to Small Business utilization as defined in section 4.7.

## 4.7 Small Business Utilization

For this solicitation the Authority has established a 30 percent Small Business Enterprise goal Contractor should refer to the Authority's Revised Small and Disadvantaged Business

Enterprise Program for Professional Services Contracts, August 20, 2012 and to Section 25 and Section 26 of Attachment C. SOQs will be evaluated for compliance with the SB/DBE Program in meeting the goal commitment of 30 percent and Contractor's approach to ensuring this goal is met during performance of the contract.

In this section, list the name of each SBE/DBE/DVBE subcontractor it will use during the course of the Work, the services each will provide, and the percentage of the Work each is anticipated to perform.

Describe Contractor's approach and processes to be employed during the performance of the contract to ensure that the goals of the Authority's Revised Small Business Enterprise Program for Professional Services Contracts are met. It is expected that the approach and processes identified will be incorporated into the Contractor's Small Business Performance Plan which will be a contract deliverable.

## 4.8 Staffing Plan

Provide a basic staffing plan showing all positions needed to accomplish the various types of assignments for the duration of the contract. Indicate the level of participation for each position by giving the percentage of hours budgeted over calendar time. The final staffing plan shall be approved by the Authority. The staffing plan will be updated and approved annually to determine the staffing required for the next financial year.

## 4.9 Key Personnel

Provide a list of individuals that will fill the following Key Personnel positions:

- Principal in Charge
- Right of Way Engineering and Surveying Services Project Manager
- Quality Manager

These positions should be identified in Contractor's Organization and Management Plan, and there shall be no change in these Key Personnel positions without prior written approval by the Authority.

## 4.10 Past Performance and References

Provide names, addresses, and telephone numbers for at least three (3) clients for whom the Contractor(s) has/have performed work similar to that which is proposed in this request. A summary statement/narrative for each assignment shall be provided highlighting Contractor's capability to carry out ROW Engineering and Surveying Services on projects of similar cost, value and complexity.

## 4.11 Organizational Conflicts of Interest

The Authority has adopted an Organizational Conflicts of Interest Policy (the "Policy") that will apply to this procurement and the resulting contract, in addition to the Authority's Conflict of Interest Code and other applicable requirements. The Policy can be found on the Authority's website at

http://www.hsr.ca.gov/docs/brdmeetings/2012/September/brdmtg0912_policy7_doc_policy.pdf

Contractor(s) are advised to carefully review the Policy, and to have their team members review the Policy, since it includes provisions that:

Preclude certain firms from participation in this procurement and affect the ability of the Contractor, its Subcontractors and their Affiliates (as defined in the Policy) to enter into business relationships with Authority Contractor(s).

Failure to comply with the Policy in any respect; including the failure to disclose any actual, perceived, or potential organizational conflict of interest; may result in serious consequences as described in Section V(2) of the Policy.

The Authority will only award a Contract to a Contractor(s) whose objectivity is not impaired because of any past, present, or planned organizational conflict of interest, financial or otherwise.

If any such conflict of interest is found to exist, the Authority may disqualify the Contractor(s), or determine that it is in the best interest of the Authority to contract with such Contractor(s) and include appropriate provisions to mitigate or avoid such conflict in the Contract awarded.

Each Contractor shall fully disclose organizational conflicts of interest in its SOQ, using Form B. The refusal to provide the required disclosure or any additional required information may result in disqualification of the Contractor(s). If nondisclosure or misrepresentation is discovered after award of the Contract through this procurement process the resulting Contract may be terminated.

By submitting its SOQ, each Contractor agrees that, if an organizational conflict of interest is discovered following submittal of the SOQ, the Contractor will make an immediate and full written disclosure to the Authority. The Contractor's full written disclosure to the Authority regarding any such conflicts of interest discovered after SOQ submission shall include a description of the action that the Contractor has taken or proposes to take to avoid or mitigate such conflicts.

## 4.12 Licensing Requirements

The Contractor shall be qualified to do business in the State of California and shall be properly licensed in accordance with the laws of the State of California at the time of the award.

# 5 Evaluation and Negotiation

The following summarizes the Statement of Qualifications review, evaluation, and negotiation processes. The selection panel will prepare the final ranking based on criteria contained herein. Based on the rankings, the Authority may either decide to conduct discussions with the top ranked firms, or the Authority may select Contractor(s) directly from the final rankings resulting from the SOQ evaluation.

## 5.1 Statement of Qualifications Requirements Review

The Authority Evaluation/Selection Committee shall review and score each SOQ to determine if it meets the requirements contained in Section 4 above. The Authority may reject any SOQ if it is conditional, incomplete, or contains irregularities. The Authority may waive an immaterial deviation in a SOQ. Waiver of an immaterial deviation shall in no way modify the SOQ documents or excuse the Contractor from full compliance with the contract requirements if the Contractor is awarded the contract. Failure to meet the requirements for the Request of Qualifications (RFQ) will result in the rejection of the SOQ.

## 5.2 Statement of Qualifications and Discussions Evaluation

The Authority Evaluation/Selection Committee will evaluate the SOQs that meet the RFQ requirements. The evaluation of SOQs will be based on the criteria described in Attachment A.

Following the evaluation of SOQs, the Authority may hold discussions with selected Contractor(s). If discussions are held, then they will be separately evaluated based on criteria described in Attachment C.

## 5.3 Contract Negotiation Process

At the conclusion of the SOQ review, evaluation and Discussions (if requested), the Evaluation/Selection Committee will recommend the top ranking Contractor(s) for award of the contract(s). The Authority will enter into negotiations for the first Task Order with the Contractors ranked “1” for the scope of the contract. If negotiations are unsuccessful, the Authority will enter into negotiations with the next highest ranked Contractor and so on sequentially. After completion of successful negotiations, the Authority shall recommend one or more Contractor’s for contract award to the Authority Board for approval.

Per July 14, 2011 Board Meeting, the Authority will be authorized to award and execute the contract to the selected Contractor(s).

# 6 Additional Requirements Related to the Contract for Right of Way Engineering and Surveying Services

The following contract provisions will be applicable upon execution of a contract resulting from this solicitation:

## 6.1 Recycling Certification

The Contractor shall certify in writing under penalty of perjury, the minimum, if not the exact, percentage of recycled content, both post-consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200. This certification shall be made based on material, goods, or supplies offered or products used in the performance of the contract for Right of Way Engineering and Surveying Services, regardless of whether the product meets the required recycled product percentage as defined in Public Contract Code, Sections 12161 and 12200. Contractor shall certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354)

## 6.2 Governing Law

Any contract awarded pursuant to this RFQ is governed by and shall be interpreted in accordance with the laws of the State of California.

## 6.3 Funding Requirements

This RFQ may have been written before ascertaining the availability of Congressional or State Legislative appropriation of funds.

Any contract awarded pursuant to this RFQ is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or the State Legislature that may affect the provisions, terms or funding in any manner.

If funding for any fiscal year is reduced or deleted by the State or Federal Budget Act for purposes of this program, the Authority shall have the option to either cancel the contract with no liability occurring to the State, or offer an amendment to Contractor(s) to reflect the reduced amount.

## 6.4 Federal Requirements

This Project will receive Federal funding, including ARRA funds. Therefore, the procurement documents and any contract entered into by the Authority shall be subject to the requirements of applicable Federal law, regulations, and conditions in the Grant/Cooperative Agreement with FRA. The Authority reserves the right to modify this procurement to address any concerns, conditions, or requirements of the funding agencies, including FRA. The full Grant/Cooperative Agreement is available for review on the Authority's website.

## 6.5 Equal Employment Opportunity

The equal employment opportunity requirements described below will apply to the contract for Right of Way Engineering and Surveying Services. In addition, the selected Contractor shall be required to include these requirements in each subcontract financed in whole or in part with federal assistance provided by FRA, modified only if necessary to identify the affected parties.

### 6.5.1 Race, Color, Religion, National Origin, Sex

In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. § 2000e) the Contractor(s) agrees to comply with the following:

- All applicable equal opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations.
- Office of Federal Contract Compliance Programs, Equal Employment Opportunity, U.S. Department of Labor.
- Including 41 C.F.R 60 et seq. (which implements Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note).
- Any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect scope of service activities undertaken in the course of this contract.

The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor(s) agrees to comply with any implementing requirements FRA may issue.

### 6.5.2 Age

In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, the Contractor(s) agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor(s) agrees to comply with any implementing requirements FRA may issue.

### 6.5.3 Disabilities

In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R Part 1630, pertaining to employment of persons with disabilities. The Contractor also agrees not to discriminate on the basis of the following:

- Drug abuse, in accordance with the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended.
- Alcohol abuse, in accordance with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended.

- To comply with Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.

In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.

## 6.6 Small and Disadvantaged Business Enterprises

The Authority has established a Revised Small and Disadvantaged Business Enterprise (SB/DBE) Program for Professional Services Contracts, and an overall 30 percent goal for small business utilization, to include within the 30 percent goal, a 10 percent goal for DBE and 3 percent Disabled Veteran Business Enterprise (DVBE) in the Authority's contracting and procurement program. The SB/DBE Program is in compliance with the Best Practices of 49 C.F.R. Part 26, Executive Order S-02-06, Military and Veterans Code 999 and Title VI of the Civil Rights Act of 1964 and related statutes.

The Authority has established a 30 percent SB goal as described above. The Contractor is expected to make efforts to meet the goal and provide a SB Performance Plan on how the goal will be met throughout the contract duration. For more detailed information regarding what components should be in the SB Performance Plan see the Revised SB/DBE Program for Professional Services Contracts, August 2012. The Authority's SB/DBE Program requirements, including the SB Performance Plan expectations, SB utilization reporting, Substitution/Termination processes, Prompt Payment Provisions, Recognized SB Roster of Certifying Agencies, and other performance related factors, is included in the Authority's Revised Small and Disadvantaged Business Enterprise Program for Professional Services Contracts—August 2012. The document is on the Authority's Small Business resource web page:

http://www.hsr.ca.gov/Programs/Small_Business/index.html

The Contractor shall provide quarterly SB utilization reports to reflect the level of small business, including DBE and DVBE utilization on the contract, including any amended portion of the contract.

## 6.7 Disadvantaged Business Enterprises

The Authority encourages the Contractor to utilize small business concerns owned and controlled by socially and economically disadvantaged individuals, also known as Disadvantaged Business Enterprises (DBE), in carrying out the contract.

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out the best practices requirements of 49 C.F.R. Part 26, as described in the Authority's Revised Small and Disadvantaged Business Enterprise Program plan for Professional Services Contracts, August 2012, in the award and administration of this FRA assisted contract. Failure by the Contractor to carry out these

requirements will be considered a material breach of the contract, which may result in the termination of the contract or such other remedy as the Authority deems appropriate.

## 6.8 Subcontracting

The Contractor shall perform the work contemplated with resources available within its own organization and the Authority and shall contract no portion of the work without written authorization, except that which is expressly identified in the Contractor's SOQ. Any subcontract in excess of $25,000 shall contain all the provisions stipulated in the Right of Way Engineering and Surveying Services contract to be applicable to subcontractors. Any substitution of subcontractors must be approved in writing by the Authority in advance of assigning work to a substitute subcontractor.

## 6.9 National Labor Relations Board Certification

In accordance with Public Contract Code section 10296, the Contractor(s) must state, under penalty of perjury, that it has not been found in contempt of court by a Federal Court, without appeal (no more than once in the preceding two (2) year period), due to the Contractor(s) failure to comply with an order by the National Labor Relations Board.

## 6.10 Drug-Free Workplace Certification

The Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code section 8350 et seq.) and will provide a drug-free workplace by doing all of the following:

- Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code section 8355(a)
- Establish a Drug-Free Awareness Program as required by Government Code section 8355(b), to inform employees about all of the following:
  - The dangers of drug abuse in the workplace;
  - The person's or organization's policy of maintaining a drug-free workplace;
  - Any available counseling, rehabilitation, and employee assistance programs;
  - Penalties that may be imposed upon employees for drug abuse violations;
- Provide as required by Government Code section 8355(c) that every employee who works on the proposed contract or grant:
  - Will receive a copy of the Contractor's drug-free policy statement
  - Will agree to abide by the terms of the Contractor's statement as a condition of employment on the contract or grant.

Failure to comply with these requirements may result in suspension of payments under the contract or termination of the contract or both and the Contractor may be ineligible for award of any future Authority contracts if the Authority determines that either of the following has occurred:

- The Contractor has made a false certification
- The Contractor violates the certification by failing to carry out the requirements as noted above

## 6.11 Labor Code/Workers Compensation

The Contractor needs to be aware of provisions that require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions and Contractor affirms to comply with such provisions before commencing the performance of the work of the contract for Right of Way Engineering and Surveying Services.

### 6.11.1 Worker's Compensation

Contractor will certify that it is aware of the provisions of section 3700 of the California Labor Code (Labor Code), which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code. The Contractor will comply with such provisions before commencing performance of Right of Way Engineering and Surveying Services under the scope and at all times during the term of the contract, whether by provision of its own insurance or self-insurance.

### 6.11.2 Prevailing Wages and Community Benefit Policy

Pursuant to the provisions of section 1773 of the Labor Code, the Authority will obtain the general prevailing rate of wages (which includes employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Section 1773.1 of said Code, apprenticeship or other training programs authorized by section 3093 of said Code, and similar purposes) as applicable to the Work to be done, for straight time, overtime, Saturday, Sunday, and holiday work. The holiday wage rate listed shall be applicable to all holidays recognized in the collective bargaining agreement of the particular craft, classification, or type of worker concerned. Copies of the prevailing rates of wages are on file at Authority's offices, and will be furnished to Contractor and other interested parties on request. For crafts or classifications not shown on the prevailing wage determinations, Contractor may be required to pay the wage rate of the most closely related craft or classification shown in such determinations for Right of Way Engineering and Surveying Services.

The Authority has adopted a Community Benefits Policy (POLI-SB-05) and will enter into a Community Benefits Agreement (CBA), inclusive of a National Targeted Hiring Initiative. The CBA shall facilitate careers in the construction industry and to promote employment opportunities during the construction of the project; remove potential barriers small businesses may encounter in participating in project, and to provide efficiency for hiring and retaining a labor force, thereby promoting the public interest in assuring timely execution of this project. The

CBA also establishes a minimum of 30% of all prevailing work hours to be performed by National Targeted Workers. The bidder is advised that the CBA requirements and components maybe applicable to this contract.

## 6.12 Force Majeure

Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include, but shall not be limited to, acts of God, fire, flood, earthquake, other natural disasters, nuclear accident, strike, lockout, riot, freight embargo, or public regulating utility or governmental statutes or regulations superimposed after the fact. The Contractor shall not be liable for damages of such delay or failure, if a delay or failure to perform by the Contractor arises out of a default of its subcontractor, and if such default arises out of Causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them.

However, with respect to supplies or services to be furnished by the subcontractor that were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule, the Contractor and its subcontractors will be held liable for damages of such delay or failure.

## 6.13 Taxes

The State of California is exempt from federal excise taxes and no payment shall be made for any personal property taxes levied on the Contractor or on any taxes levied on employee wages. The Authority will only pay for any State or local sales or use taxes on the services rendered to the Authority pursuant to the contract.

## 6.14 Insurance

The Contractor shall provide evidence of the ability to obtain the following insurance coverage for the Project:

- Commercial general liability insurance that affords coverage at least as broad as Insurance Services Office (ISO) “occurrence” form CG 0001 or CG 0002 with minimum limits of $5,000,000 and, if written with an aggregate, the aggregate shall be double the occurrence limit.
- Automobile liability insurance with coverage at least as broad as ISO Form CA 0001 covering “Any Auto” (Symbol 1) with minimum limits of $5,000,000 each accident.
- Professional liability insurance, with a limit of not less than $1,000,000 per claim, Worker’s Compensation, and employer’s liability insurance with a limit of not less than $1,000,000 per accident.

# 7 General Information

## 7.1 Property Rights

SOQs received within the prescribed deadline become the property of the Authority and all rights to the contents therein become those of the Authority. All material developed and produced for the Authority under the contract for Right of Way Engineering and Surveying Services shall belong exclusively to the State of California.

## 7.2 Confidentiality

All written correspondence, exhibits, photographs, reports, printed material, tapes, electronic disks, and other graphic and visual aids submitted to the Authority during this procurement process, including as part of a response to this RFQ are, upon their receipt by the Authority, the property of the Authority and are subject to the Open Government Laws. None of the aforementioned materials will be returned to the submitting parties. Any materials that are delivered to FRA are subject to the Freedom of Information Act or other Federal open records laws. Contractor(s) should familiarize themselves with the Open Government Laws, including the Public Records Act and Freedom of Information Act. In no event shall the State, the Authority, FRA, or any of their agents, representatives, Contractor(s)s, directors, officers or employees be liable to a Contractor(s) or Contractor(s) team member for the disclosure of all or a portion of an SOQ submitted in response to this RFQ or other information provided in connection with this procurement.

If a Contractor(s) has special concerns about information that it desires to make available to the Authority, but which it believes constitutes a trade secret, proprietary information, or other information excepted from disclosure, such Contractor(s) should specifically and conspicuously designate that information as “TRADE SECRET” or “CONFIDENTIAL” in its filed response to this RFQ. Blanket, all-inclusive identifications by designation of whole pages or sections as containing proprietary information, trade secrets, or confidential commercial or financial information shall not be permitted and shall be deemed invalid. The specific proprietary information, trade secrets, or confidential commercial and financial information must be clearly identified as such. Under no circumstances, however, will the Authority be responsible or liable to the Contractor(s) or any other party for the disclosure of any such labeled materials, whether the disclosure is deemed required by law, by an order of court, or occurs through inadvertence, mistake, or negligence on the part of the Authority or its officers, employees, contractors, or Contractor(s).

The Authority will not advise a submitting party as to the nature or content of documents entitled to protection from disclosure under the Public Records Act, Freedom of Information Act (FOIA), USDOT FOIA regulations (49 CFR 7.17) or other applicable laws and implementing regulations, as to the interpretation of the Public Records Act or Freedom of Information Act, or as to the definition of trade secret. The submitting party shall be solely responsible for all determinations made by it under applicable laws and for clearly and prominently marking each and every page or sheet of materials with "TRADE SECRET" or "CONFIDENTIAL" as it determines to be appropriate. Each submitting party is advised to contact its own legal counsel concerning the

Public Records Act, Freedom of Information Act and other applicable laws and their application to the submitting party's own circumstances. In the event of litigation concerning the disclosure of any material submitted by the submitting party, the Authority's sole involvement will be as a stakeholder retaining the material until otherwise ordered by a court and the submitting party shall be responsible for otherwise prosecuting or defending any action concerning the materials at its sole expense and risk. The submitting party shall reimburse the Authority for any expenses it incurs in connection with any such litigation.

### 7.3 Amendments to Request for Qualifications

The Authority reserves the right to amend the RFQ by addendum before the final date of SOQ submission.

### 7.4 Non-Commitment of Authority

This RFQ does not commit the Authority to award a contract, to pay any costs incurred in the preparation of a SOQ to this request, or to procure or contract for services or supplies. The Authority reserves the right to accept or reject any or all SOQs received as a result of this request, to negotiate with any qualified Contractor(s), or to modify or cancel in part or in its entirety the RFQ if it is in the best interests of the Authority to do so.

### 7.5 Public Domain

All products used or developed in the execution of any contract resulting from this RFQ will remain in the public domain at the completion of the contract.

## Attachment A: Criteria for Awarding Points for the Statement of Qualifications

| Sect. | | | Maximum Score | Actual Score |
|---|---|---|---|---|
| 4.4 | 1. | **UNDERSTANDING OF PROJECT REQUIREMENTS**<br>• Has the Contractor(s) demonstrated a thorough knowledge of the project?<br>• Is there sufficient evidence of analysis to lend credibility to the commitments made? | 25 | |
| 4.5 | 2. | **ORGANIZATION AND MANAGEMENT PLAN**<br>• Does the proposed project organization present a clear and logical framework?<br>• Is the management approach complementary and responsive to the RFQ requirements?<br>• Does/Do the Contractor(s) staffing plan convey the proper level of response for the work at hand?<br>• Does it demonstrate a high level of commitment and resource availability? | 10 | |
| 4.10 | 3. | **ROW ENGINEERING AND SURVEYING SERVICES CAPABILITIES**<br>• Has the Contractor(s) given clear evidence through narratives and examples of prior work that it has the capability to carry out the Right of Way Engineering and Surveying Services for a project of similar cost value and complexity and magnitude with autonomy? | 30 | |
| 4.8<br>4.9 | 4. | **KEY PERSONNEL AND STAFFING**<br>• Are the personal qualifications and professional skills of the project manager, senior professionals and Key Personnel nominees appropriate for the roles assigned?<br>• Does the project manager have sufficient authority within his organization to effectively lead and manage the project?<br>• Is the staffing plan consistent with the organization and management plan, and sufficient to accomplish those tasks identified in the general scope of services? | 15 | |
| 4.7 | 5. | **SMALL BUSINESS PARTICIPATION**<br>• Does the approach to Small Business utilization demonstrate the Contractor's responsiveness in meeting the Authority's Small Business goal objectives? Scoring will be based on percentage of goal proposed to be met by Contractor's approach.<br>• Do identified subcontractors support Contractor's approach? | 10 | |

| | | | | |
|---|---|---|---|---|
| **4.6** | **6.** | **WORK PROGRAM AND WBS**<br>• Does the Contractor's work plan demonstrate a clear understanding of the Right of Way Engineering and Surveying Services requirements and the services requested in the RFQ?<br>• Are the task descriptions succinct yet sufficiently specific to define the scope-of-work? | 10 | |
| **4.2** | **7.** | **SOQ Transmittal Letter signed by an authorized Officer**<br>(Pass/Fail – must include but no points scored) | N/A | |
| | | **Total** | **100** | |

## Attachment B: Criteria for Evaluation of Discussions (if requested)

| | | Maximum Score | Actual Score |
|---|---|---|---|
| **1.** | **STATEMENT OF QUALIFICATIONS (carry over)**[2] | 80 | |
| **2.** | **PRESENTATION**<br>• Quality and appropriateness of the presentation<br>• Logic of the chosen speakers relative to project challenges<br>• Project manager control over the team | 3 | |
| **3.** | **PROJECT MANAGER PARTICIPATION**<br>• Quality of presentation and responsiveness to questions<br>• Understanding of ROW Engineering and Surveying Services challenges and requirements<br>• Perceived level of involvement with SOQ structure, content and presentation plan | 4 | |
| **4.** | **KEY STAFF PARTICIPATION**<br>• Quality of presentations and responsiveness to questions<br>• Understanding of assignment challenges and requirements<br>• Perceived level of involvement with SOQs preparation | 3 | |
| **5.** | **UNDERSTANDING OF PROJECT**<br>• Does Contractor(s) convey an understanding of the critical project success factors?<br>• Is the Contractor(s) able to provide evidence of successful small business utilization for this project<br>• Is the Contractor(s) able to provide evidence of prior project experience with challenges of this magnitude and complexity?<br>• Is the Contractor(s) candid about any project failings that have been instructive for addressing the particular needs of this project? | 10 | |
| | **Total:** | 100 | |

[2]SOQ carry over is calculated as follows:

$$\left(\frac{Total\ Score\ on\ SOQ}{100}\right) \times 80\ Possible\ Points\ = Carry\ Over\ Points$$

# Attachment C: Supplemental Terms and Conditions for Contracts Using Federal Funds

## 1. FEDERAL REQUIREMENTS

The Contractor understands that the Authority has received Federal funding from FRA for the Project and acknowledges that it is required to comply with all applicable federal laws, regulations, policies and related administrative practices, whether or not they are specifically referenced herein. The Contractor acknowledges that federal laws, regulations, policies and related administrative practices may change and that such changed requirements will apply to the Project. The Contractor shall ensure compliance by its Subcontractors and include appropriate flow down provisions in each of its lower-tier Subcontracts as required by applicable federal laws, regulations, policies and related administrative practices, whether or not specifically referenced herein.

Notwithstanding anything to the contrary contained in the Contract Documents, all FRA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the Contract Documents. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests, which would cause the Authority to be in violation of FRA requirements.

## 2. COMPLIANCE WITH FEDERAL REQUIREMENTS

The Contractor's failure to so comply shall constitute a material breach of this Agreement.

## 3. FEDERAL STANDARDS

The Contractor agrees to comply with the Procurement Standards requirements set forth at 49 C.F.R. § 18.36 or 49 C.F.R. §§ 19.40 through 19.48 inclusive, whichever may be applicable, and with applicable supplementary U.S. Department of Transportation (U.S. DOT) or FRA directives or regulations. If determined necessary for proper Project administration, FRA reserves the right to review the Contractor’s technical specifications and requirements.

## 4. CERTIFICATION REGARDING LOBBYING

As required by 49 C.F.R. Part 20, “New Restrictions on Lobbying,” the Contractor certifies, to the best of its knowledge and belief, that:

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

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

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

D. The Contractor also agrees that by signing this Agreement, it shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000, and that all such subcontractors shall certify and disclose accordingly.

## 5. DEBARMENT AND SUSPENSION

This Agreement is a covered transaction for purposes of 2 C.F.R. 1200. As such, the Contractor is required to comply with applicable provisions of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension" 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopt and supplement the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement)," 2 C.F.R. Part 180.

To the extent required by the aforementioned U.S. DOT regulations and U.S. OMB guidance, the Contractor must verify that the subcontractor is not excluded or disqualified in accordance with said regulations by reviewing the "Excluded Parties Listing System" at http://epls.gov/. The Contractor shall obtain appropriate certifications from each such subcontractor and provide such certifications to the Authority.

The Contractor shall include a term or condition in the contract documents for each lower tier covered transaction, assuring that, to the extent required by the U.S. DOT regulations and U.S. OMB guidance, each subcontractor will review the "Excluded Parties Listing System," will obtain certifications from lower tier subcontractors, and will include a similar term or condition in each of its lower-tier covered transactions.

## 6. SITE VISITS

To the extent applicable, the Contractor agrees that FRA, through its authorized representatives, has the right, at all reasonable times, to make site visits to review Project accomplishments and for other reasons. If any site visit is made by FRA on the premises of the Contractor or any of its subcontractors under this Agreement, the Contractor shall provide and shall require its subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of FRA representatives in the performance of their duties. All site visits and

evaluations shall be performed in such a manner as will not unduly delay work being conducted by the Contractor or subcontractor.

## 7. SAFETY OVERSIGHT

To the extent applicable, the Contractor agrees to comply with any Federal regulations, laws, or policies and other guidance that FRA or U.S. DOT may issue pertaining to safety oversight in general, and in the performance of this Agreement, in particular.

## 8. ENVIRONMENTAL PROTECTION

The Contractor and any subcontractor under this Contract shall comply with all applicable environmental requirements and regulations, including any amendments, as follows:

A. **Clean Air:** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Authority, and understands and agrees that the Authority shall, in turn, report each violation as required to assure notification to the FRA and the appropriate Environmental Protection Agency (EPA) Regional Office.

B. **Clean Water:** The Contractor agrees to comply with all applicable standards orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Authority, and understands and agrees that the Authority shall, in turn, report each violation as required to assure notification to the FRA and the appropriate EPA Regional Office.

C. **Energy Conservation:** The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6421 et seq.).

D. **Agreement Not To Use Violating Facilities:** The Contractor agrees not to use any facility to perform work hereunder that is listed on the List of Violating Facilities maintained by the EPA. The Contractor shall promptly notify the Authority if the Contractor or any subcontractor receives any communication from the EPA indicating that any facility which will be used to perform work pursuant to this Agreement is under consideration to be listed on the EPA's List of Violating Facilities; provided, however, that the Contractor's duty of notification hereunder shall extend only to those communications of which it is aware, or should reasonably have been aware.

E. **Environmental Protection:** The Contractor shall comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 et seq.

F. **Incorporation of Provisions:** The Contractor shall include the above provisions (a) through (e) in every subcontract hereunder exceeding $50,000 financed in whole or in part with federal assistance provided by the FRA.

## 9. CIVIL RIGHTS

The following requirements apply to this Agreement:

A. **Nondiscrimination:** In accordance with Title VI of the Civil Rights Act, as amended; 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended; 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990; 42 U.S.C. § 12132; and 49 U.S.C. § 306, the Contractor agrees that it will not discriminate against any individual because of race, color, religion, national origin, sex, age or disability in any activities leading up to or in performance of the Contract. In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.

B. **Equal Employment Opportunity:** The following equal employment opportunity requirements apply to this Agreement:

i. **Race, Color, Religion, National Origin, Sex:** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the Contractor agrees to comply with all applicable equal opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," including 41 C.F.R 60 et seq. (which implements Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, or age. Such action shall include the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FRA may issue.

ii. **Age:** In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FRA may issue.

iii. **Disabilities:** In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FRA may issue.

The Contractor also agrees not to discriminate on the basis of drug abuse, in accordance with the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, alcohol abuse, in accordance with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, and to comply with Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records. In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance provided by FRA, modified only if necessary to identify the affected parties.

## 10. CARGO PREFERENCE – USE OF UNITED STATES-FLAG VESSELS

To the extent applicable, Contractor agrees to the following:

A. To use privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to the underlying Contract to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

B. To furnish within 20 Working Days following the date of loading for shipments originating within the United States, or within 30 Working Days following the date of loading for shipments originating outside the United States, a legible copy of a rated, “on-board” commercial ocean bill-of-lading in English for each shipment of cargo described in the first bullet of this clause above. This bill-of-lading shall be furnished to the Authority (through the Contractor in the case of a Subcontractor’s bill-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, D.C. 20590, marked with appropriate identification of the Project.

C. To include these requirements in all Subcontracts issued pursuant to this Contract when the Subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

## 11. PROPERTY, EQUIPMENT AND SUPPLIES

To the extent applicable, Contractor agrees to the following:

A. Contractor agrees that Project property, equipment, and supplies shall be used for the Project activity for the duration of its useful life, as determined by FRA. Should the Contractor unreasonably delay or fail to use Project property, equipment or supplies during its useful life, the Contractor agrees that FRA may require the Contractor to return the entire amount of FRA assistance expended on that property, equipment or supplies. The Contractor further agrees to notify the Authority when any Project property or equipment is withdrawn from use in the Project activity.

B. Contractor agrees to comply with the property standards of 49 C.F.R. 19.30 through 19.37 inclusive, including any amendments thereto, and other applicable guidelines or regulations that are issued.

C. Contractor agrees to maintain the Project property and equipment in good operating order, and in accordance with any guidelines, directives, or regulations that FRA may issue.

D. The Contractor agrees to keep satisfactory records with regard to the use of the property, equipment and supplies, and submit to FRA, upon request, such information as may be required to assure compliance with this section.

E. Contractor agrees that FRA may:

   i. Require the Contractor to transfer title to any property, equipment or supplies financed with FRA assistance, as permitted by 49 C.F.R. 19.30 through 19.37 inclusive.

   ii. Direct the disposition of property or equipment financed with FRA assistance as set forth by 49 C.F.R. 19.30 through 19.37 inclusive.

F. If any Project property, equipment, or supplies are not used for the Project for the duration of its useful life, as determined by FRA, whether planned withdrawal, misuse or casualty loss, the Contractor agrees to notify the Authority immediately. Disposition of withdrawn property, equipment or supplies shall be in accordance with 49 C.F.R. 19.30 through 19.37 inclusive.

G. Unless expressly authorized in writing by the Authority, the Contractor agrees to refrain from:

   i. Executing any transfer of title, lease, lien, pledge, mortgage, encumbrance, contract, grant anticipation note, alienation, or other obligation that in any way would affect Authority or FRA interest in any Property or equipment; or

   ii. Obligating itself in any manner to any third party with respect to Project property or equipment.

## 12. FLOOD HAZARDS

To the extent applicable, Contractor agrees to comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012(a) with respect to any construction or acquisition Project.

## 13. ARRA FUNDED PROJECT

Funding for this Agreement has been provided through the America Recovery Reinvestment Act (ARRA) of 2009, Pub. L. 111-5. All Contractors, including both prime and subcontractors, are subject to audit by appropriate Federal or State of California (State) entities. The State has the right to cancel, terminate or suspend the Agreement if any Contractor or subcontractor fails to comply with the reporting and operational requirements contained herein.

## 14. ENFORCEABILITY

Contractor agrees that if the Contractor or one of its subcontractors fails to comply with all applicable Federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds allowing an audit. This provision is in addition to all other remedies available to the State under all applicable State and Federal laws.

## 15. LABOR PROVISIONS

49 U.S.C. 24405(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided through this Agreement shall be considered a "rail carrier," as defined by 49 U.S.C. § 10102(5), for the purposes of Title 49, U.S.C., and any other statue that adopts that definition or in which that definition applies, including the Railroad Retirement Act of 1974 (45 U.S.C. § 231 *et seq.*), the Railway Labor Act (43 U.S.C. § 151 *et seq.*), and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 *et seq.*) To the extent required by 49 U.S.C. § 24405(b) and other laws referenced above, the Contractor shall reflect these provisions in its agreements funded in whole or in part by this Agreement with entities operating rail services over such rail infrastructure.

## 16. LABOR PROTECTIVE ARRANGEMENTS

The Contractor agrees to comply with the applicable protective arrangements established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), 45 U.S.C. § 836 with respect to employees affected by actions taken in connection with the Project. The Contractor also agrees to include the applicable protective arrangements established by the U.S. DOL under 45 U.S.C. § 836 in its arrangements with entities operating rail services over rail infrastructure constructed as part of this Agreement.

## 17. PROHIBITION ON USE OF ARRA FUNDS

Contractor agrees in accordance with ARRA, Section 1604, that none of the funds made available under this Agreement may be used for any casino or other gambling establishment, aquarium, zoo, golf course or swimming pool.

## 18. BUY AMERICAN – REQUIRED USE OF AMERICAN IRON, STEEL AND OTHER MANUFACTURED GOODS

To the extent applicable under this Agreement, Contractor shall comply with the Passenger Rail Investment and Improvement Act (PRIIA) of 2008, Pub. L. 110-432, section 24405(a), which provides that Federal funds may not be obligated unless steel, iron, and manufactured products used in FRA-funded projects are produced in the United States, unless a waiver has been granted by the US Secretary of Transportation. For more information on FRA's Buy America requirements and processes please see FRA's Answers to Frequently Ask Questions (FAQ) available at:

http://www.fra.dot.gov/Page/P0391.

Should Contractor fail to demonstrate compliance with 49 U.S.C. § 24405(a) and a waiver has not been granted, the Contractor must take the necessary steps in order to achieve compliance, at no cost to the Authority. Contractor's failure to comply with this provision shall be a material breach of the Agreement.

Where the Contractor is unable to certify that it will meet the Buy America requirements and believes it may qualify, pursuant to 49 U.S.C. § 24405(a)(2) for a waiver from the Buy America requirements set forth therein, the Contractor must submit to the Authority a written justification detailing the reasons it believes it meets the particular waiver exception(s). At a minimum, the Contractor's written waiver request justification shall contain:

A. Description of the Project;

B. Description of the steel, iron or manufactured goods not meeting the Buy America requirement;

C. Description of the percentage of U.S. content in the steel, iron or manufactured goods, as applicable;

D. Description of the efforts made to secure the Buy America compliant steel, iron or manufactured goods;

E. Description of the bidding process used in the procurement (e.g., whether open or closed, how many bids were received, were any compliant products offered in competing bids);

F. If a waiver request is based on price, cost differential(s) that would be incurred in order to secure compliant Buy American steel, iron or manufactured goods;

G. Citation to specific waiver categories in 49 U.S.C. § 24405(a)(2) under which the waiver is sought

H. Justification supporting the application of the waiver categories cited; and

I. Contact information for the responsible party.

If the evidence indicates noncompliance with Buy America requirements, the Authority will initiate an investigation. FRA may also initiate its own investigation. The Contractor shall have the burden of proof to establish compliance. If the Contractor fails to demonstrate compliance, then the Contractor shall substitute sufficient domestic materials without revision of the Contract terms. Failure to comply with the provisions of this clause may lead to the initiation of debarment proceedings pursuant to 49 C.F.R. Part 29.

## 19. WAGE RATE REQUIREMENTS

To the extent applicable under this Agreement, payment of prevailing wages on the Project is required by 49 U.S.C. § 24405(c)(2) and ARRA Section 1606. For Project components that use or would use rights-of-way owned by a railroad, the Contractor shall comply with the Provisions of 49 U.S.C. § 24312. For these purposes, wages in collective bargaining agreements

negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements. For Project components that do not use or would not use rights-of-way owned by a railroad, the Contractor will comply with the provisions of 40 U.S.C § 3141 et seq.

When prevailing wage rates apply, the Contractor must submit, with each invoice, a certified copy of the payroll for compliance verification. Invoice payment will not be made until the payroll has been verified and the invoice approved by the Contract Manager.

If there is any conflict between the State prevailing wages and the Federal prevailing wages, the higher rate shall be paid.

Any subagreement entered into as a result of this Agreement shall contain all of the provisions of this clause.

## 20. INSPECTION OF RECORDS

In accordance with ARRA Sections 902, 1514 and 1515, Contractor agrees that it shall permit the State of California, the United States Comptroller General, the United States Department of Transportation Secretary, or their representatives or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to:

Examine any records that directly pertain to, and involve transactions relating to, this Agreement; and

Interview any officer or employee of Contractor or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by the ARRA.

Contractor shall include this provision in all of the Contractor's agreements with its subcontractors from whom the Contractor acquires goods or services in it execution of the ARRA funded work.

## 21. WHISTLEBLOWER PROTECTION

Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-federal Contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of:

A. Gross mismanagement of a contract relating to ARRA funds;

B. A gross waste of ARRA funds;

C. A substantial and specific danger to the public health or safety related to the implementation or use of ARRA funds;

D. An abuse of authority related to implementation or use of ARRA funds; or

E. A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contractor) awarded or issued relating to ARRA funds.

Contractor agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.

## 22. FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986 (6 C.F.R. 13), as amended, 31 U.S.C. § 3801 et seq., and USDOT regulations Program Fraud Civil Remedies (49 C.F.R. Part 31), apply to its actions pertaining to this Project. Upon execution of the underlying Contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FRA assisted project for which this Contract Work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 as cited above on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FRA, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two paragraphs in each Subcontract financed in whole or in part with federal assistance provided by FRA. It is further agreed that the paragraphs shall not be modified, except to identify the Subcontractor who will be subject to the provisions.

Contractor agrees that it shall promptly notify the State and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor, or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.

## 23. REPORTING REQUIREMENTS

Pursuant to Section 1512 of the ARRA, in order for state agencies receiving ARRA funds to prepare the required reports, Contractor agrees to provide the Authority with the following information on a monthly (quarterly) basis:

- The total amount of ARRA funds received by Contractor during the Reporting Period;
- The amount of ARRA funds that were expended or obligated during the Reporting Period;

- A detailed list of all projects or activities for which ARRA funds were expended or obligated, including:
- The name of the project or activity;
- A description of the project activity;
- An evaluation of the completion status of the project or activity; and
- An estimate of the number of jobs created and/or retained by the project or activity;

For any contracts equal to or greater than $25,000:

- The name of the entity receiving the contract;
- The amount of the contract;
- The transaction type;
- The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number;
- The Program source;
- An award title descriptive of the purpose of each funding action;
- The location of the entity receiving the contract;
- The primary location of the contract, including the city, state, congressional district and county;
- The DUNS number, or name and zip code for the entity headquarters;
- A unique identifier of the entity receiving the contract and the parent entity of Contractor, should the entity be owned by another; and
- The names and total compensation of the five most highly compensated officers of the company if received:
  - 80% or more of its annual gross revenues in Federal awards;
  - $25,000,000 or more in annual gross revenue from Federal awards and;
  - If the public does not have access to information about the compensation of senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of Internal Revenue Code of 1986;

For any contract of less than $25,000 or to individuals, the information required above may be reported in the aggregate and requires the certification of an authorized officer of Contractor that the information contained in the report is accurate.

Any other information reasonably requested by the State of California or required by state or federal law or regulation.

Standard data elements and federal instruction for use in complying with reporting requirements under Section 1512 of the ARRA, are pending review by the federal government, and were published in the Federal Register on April 1, 2009 [74 FR 14824], and are to be provided online at www.FederalRegister.gov. The additional requirements will be added to this Agreement(s).

## 24. ACCESS TO RECORDS

The Contractor agrees to provide the Authority, the Secretary of the U.S. Department of Transportation, the FRA Administrator, the Comptroller General of the United States, or any of their authorized representatives, access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts, and reports required under this contract for a period of not less than seven years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case the Contractor agrees to maintain same until the Authority, the FRA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 C.F.R. § 18.39(i)(11).

The inclusion of these requirements is not required in Subcontracts.

## 25. SMALL AND DISADVANTAGED BUSINESS ENTERPRISES

The Authority has established a Revised Small and Disadvantaged Business Enterprise (SB/DBE) Program for Professional Services Contracts, and an overall 30 percent goal for small business utilization, to include within the 30 percent goal, a 10 percent goal for DBE and 3 percent Disabled Veteran Business Enterprise (DVBE) in the Authority's contracting and procurement program. The SB/DBE Program is in compliance with the Best Practices of 49 C.F.R. Part 26, Executive Order S-02-06, Military and Veterans Code 999 and Title VI of the Civil Rights Act of 1964 and related statutes.

The Authority has established a 30 percent SB goal as described above. The Offeror is expected to make efforts to meet the goal and provide a SB Performance Plan on how the goal will be met throughout the contract duration. For more detailed information regarding what components should be in the SB Performance Plan see the Revised SB/DBE Program for Professional Services Contracts. The Authority's SB/DBE Program requirements, including the SB Performance Plan expectations, SB utilization reporting, Substitution/Termination processes, Prompt Payment Provisions, Recognized SB Roster of Certifying Agencies, and other performance related factors, is included in the Authority's Revised Small and Disadvantaged Business Enterprise Program for Professional Services Contracts—August 2012. The document is on the Authority's Small Business resource web page:

http://www.hsr.ca.gov/Programs/Small_Business/index.html

The Contractor shall provide quarterly SB utilization reports to reflect the level of small business, including DBE and DVBE utilization on the contract, including any amended portion of the contract.

## 26. DISADVANTAGED BUSINESS ENTERPRISES

The Authority encourages the Contractor to utilize small business concerns owned and controlled by socially and economically disadvantaged individuals, also known as Disadvantaged Business Enterprises (DBE), in carrying out the contract.

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out the best practices requirements of 49 C.F.R. Part 26, as described in the Authority's Revised Small and Disadvantaged Business Enterprise Program plan for Professional Services Contracts, in the award and administration of this FRA assisted contract. Failure by the Contractor to carry out these requirements will be considered a material breach of the contract, which may result in the termination of the contract or such other remedy as the Authority deems appropriate.

## 27. REPRINTS OF PUBLICATIONS

Whenever an employee of a Contractor-Related Entity writes an article regarding the Project or otherwise resulting from work under this Contract that is published in a scientific, technical, or professional journal or publication, the Contractor shall ensure that the Authority is sent two reprints of the publication, clearly referenced with the appropriate identifying information.

## 28. FLY AMERICA

The Contractor agrees to comply with 49 U.S.C. § 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 C.F.R. 301-10, which provide that recipients and sub-recipients of federal funds and their contractors are required to use U.S. flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. If a foreign air carrier was used, the Contractor shall submit an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier, and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all Subcontracts that may involve international air transportation.

# Forms and Certifications

Form A: Schedule of Subcontractor(s)/Subcontractor(s)

Form B: Organizational Conflicts of Interest Disclosure Statement

Cert. 1: Certification Regarding Miscellaneous State Requirements

Cert. 2: Contractor's Overall Project Small Business Goal Commitment Affidavit

Cert. 3: Darfur Contracting Act Certification

Cert. 4: Iran Contracting Certification

Cert. 5: Contractor Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification

Cert. 6: Subcontractor Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification

Cert. 7: Non-Collusion Affidavit

Cert. 8: Equal Employment Opportunity Certification

Cert. 9: Non-Discrimination Certification

Cert. 10: Certification Regarding Lobbying

## Form A: Schedule of Subcontractor(s)/Subcontractor(s)

| Names and Addresses of Subcontractor(s)/SubContractor(s)(s) | | Type of Work to be Performed | Small Business Status (Check all that apply) | Previous Year's Annual Gross Receipts |
|---|---|---|---|---|
| Name: | | | ☐ Yes | ☐ < $500K |
| Street Address: | | | | |
| City, State Zip: | | | ☐ No | ☐ $500K-$2 Mil |
| Phone: | | | | |
| Fax: | | | If "Yes": ☐ DBE ☐ SB | ☐ $2 Mil-$5 Mil |
| Tax ID: | | | | |
| Contact Person: | | Age of Firm: | ☐ Micro B | ☐ > $5Mil |
| Email: | | | ☐ DVBE | |
| Name: | | | ☐ Yes | ☐ < $500K |
| Street Address: | | | | |
| City, State Zip: | | | ☐ No | ☐ $500K-$2 Mil |
| Phone: | | | | |
| Fax: | | | If "Yes": ☐ DBE ☐ SB | ☐ $2 Mil-$5 Mil |
| Tax ID: | | | | |
| Contact Person: | | Age of Firm: | ☐ Micro B | ☐ > $5Mil |
| Email: | | | ☐ DVBE | |
| Name: | | | ☐ Yes | ☐ < $500K |
| Street Address: | | | | |
| City, State Zip: | | | ☐ No | ☐ $500K-$2Mil |
| Phone: | | | | |
| Fax: | | | If "Yes": ☐ DBE ☐ SB | ☐ $2Mil-$5Mil |
| Tax ID: | | | | |
| Contact Person: | | Age of Firm: | ☐ Micro B | ☐ > $5Mil |
| Email: | | | ☐ DVBE | |

(Add rows/pages as needed)

Attach to this form copy(s) of applicable Small Business Certificates for those Subcontractor/Subcontractor(s) that are designated as Small Business Entities.

Signature of Team Representative

Printed Name

Title

Date

**Organization Name, Address, and Telephone**

**Form B: Organizational Conflicts of Interest Disclosure Statement**

# CALIFORNIA HIGH SPEED RAIL AUTHORITY

## Definition

The Authority's Conflict of Interest Policy defines organizational conflicts of interest as follows:

"Organizational Conflict of Interest" means a circumstance arising out of a Contractor's existing or past activities, business or financial interests, familial relationships, contractual relationships, and/or organizational structure (i.e., parent entities, subsidiaries, Affiliates, etc.) that results in (i) impairment or potential impairment of a Contractor's ability to render impartial assistance or advice to the Authority or of its objectivity in performing work for Authority, (ii) an unfair competitive advantage for any Contractor with respect to an Authority procurement; or (iii) a perception or appearance of impropriety with respect to any of the Authority's procurements or contracts or a perception or appearance of unfair competitive advantage with respect to a procurement by the Authority (regardless of whether any such perception is accurate).

## Disclosure

In the space provided below, and on supplemental sheets as necessary, identify all relevant facts relating to past, present or planned interest of the Contractor and its team (including Contractor, Contractor Team members, and all Subcontractors identified at the time of the submittal of its SOQ, and their respective personnel) which may result, or could be viewed as, an organizational conflict of interest in connection with the RFQ.

## Explanation

In the space below, and on supplemental sheets as necessary, identify steps that have been or will be taken to avoid or mitigate any organizational conflicts of interest described herein.

## Certification

The undersigned hereby certifies that, to the best of his or her knowledge and belief, no interest exists that is required to be disclosed in this Organizational Conflicts of Interest Disclosure Statement, other than as disclosed above.

Signature of Team Representative

Printed Name

Title

Date

**Organization Name, Address, and Telephone**

## Cert. 1: Certification Regarding Miscellaneous State Requirements

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the Contractor (referred to "Contractor" herein) to the clause(s) listed below. This certification is made under the laws of the State of California.

| | |
|---|---|
| *Contractor Name (Printed)* | *Federal ID Number* |
| *By (Authorized Signature)* | |
| *Printed Name and Title of Person Signing* | |
| *Date Executed* | *Executed in the County and State of* |

Contractor Certification Clauses:

**Statement of Compliance** - Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, section 8103) (Not applicable to public entities.)

**Drug-Free Workplace Requirements** - Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

B. Establish a Drug-Free Awareness Program to inform employees about:

C. The dangers of drug abuse in the workplace;

D. The person's or organization's policy of maintaining a drug-free workplace;

E. Any available counseling, rehabilitation and employee assistance programs; and,

F. Penalties that may be imposed upon employees for drug abuse violations.

G. Every employee who works on the proposed Agreement will:

H. Receive a copy of the company's drug-free workplace policy statement; and,

I. Agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award

of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

**National Labor Relations Board Certification -** Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

**Contracts for Legal Services $50,000 Or More -** Pro Bono Requirement - Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10 percent of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

**Expatriate Corporations -** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

Sweat free Code of Conduct -

A. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

B. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department

of Justice to determine the contractor's compliance with the requirements under paragraph (a).

**Domestic Partners -** For contracts over $100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

## DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. Conflict of Interest: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.
    a. Current State Employees (Pub. Contract Code §10410):
        i. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
        ii. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
    b. Former State Employees (Pub. Contract Code §10411):
        i. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
        ii. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

    If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

    Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. Labor Code/Workers' Compensation: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to

comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. Americans with Disabilities Act: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. Contractor Name Change: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. Corporate Qualifications to do Business in California:

    a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

    b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, more often than not a corporate contractor performing within the state will be subject to the franchise tax.

    c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. Resolution: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. Air or Water Pollution Violation: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

## PAYEE DATA RECORD FORM STD. 204:

This form must be completed by all contractors that are not another state agency or other governmental entity.

**Cert. 2: Contractor's Overall Project Small Business Goal Commitment Affidavit**

# AFFIDAVIT

STATE OF _____ §
§
§
COUNTY OF _____ §

The undersigned, being first duly sworn, deposes and says that:

_____
(Contact Name)

is the Official Representative of

_____ ,
(Contractor's Name)

The Contractor submitting the foregoing SOQ.

The Contractor has carefully examined all documents that form this Request for Qualification and is aware that California High-Speed Rail Authority (Authority) has established an overall project Small Business goal of 30 percent, inclusive of Small Businesses, Disadvantaged Business Enterprises (10 percent), and Disabled Veteran Business Enterprises (3 percent) and for this solicitation, in conformance with Executive Order S-02-06, Title VI of the Civil Rights Act of 1964, and related statutes and Best Practices of 49 C.F.R. Part 26, as set forth in the Authority's Small and Disadvantaged Business Enterprise Program.

The Contractor will aggressively exercise efforts to the satisfaction of the Authority to meet or exceed the overall project Small Business goal of 30 percent, consistent with the Contractor's approved SB Performance Plan developed in accordance with the Authority's Small and Disadvantaged Business Enterprise Program.

_____
Signature of Team Representative

_____
Printed Name

_____
Title

_____
Date

Subscribed and sworn to before me this ____ day of _____, 20 _____ .

_____ [SEAL]

Notary Public in and for said County and State

My commission expires: _____

## Cert. 3: Darfur Contracting Act Certification

Pursuant to Public Contract Code section 10478, if a Contractor currently or within the previous three (3) years has had business activities or other operations outside of the United States, it must certify that it is not a "scrutinized" company as defined in Public Contract Code section 10476.

Therefore, to be eligible to submit a bid or proposal, please complete only one of the following three paragraphs (via initials for Paragraph No. 1 or Paragraph No. 2, or via initials and certification for Paragraph No. 3):

1. _____ Initials We do not currently have, or we have not had within the previous three years, business activities or other operations outside of the United States.

**OR**

2. _____ Initials We are a scrutinized company as defined in Public Contract Code section 10476, but we have received written permission from the Department of General Services (DGS) to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

**OR**

3. _____ Initials We currently have, or we have had within the previous three years, business activities or other operations outside of the United States, but we certify below that we are not a scrutinized company below as defined in Public Contract Code section 10476.

### CERTIFICATION for Paragraph No. 3

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the Contractor to the clause listed above in Paragraph No. 3. This certification is made under the laws of the State of California.

| | |
|---|---|
| Contractor Name (Printed) | Federal ID Number |
| By (Authorized Signature) | |
| Printed Name and Title of Person Signing | |
| Date Executed | Executed in the County and State of |

## Cert. 4: Iran Contracting Certification

Section 2200 et seq. of the California Public Contract Code prohibits a person from submitting a proposal for a contract with a public entity for goods and services of $1,000,000 or more if that person is identified on a list created by the Department of General Services (DGS) pursuant to Section 2203(b) of the California Public Contract Code. The list will include persons providing goods or services of $20,000,000 or more in the energy sector of Iran and financial institutions that extend $20,000,000 or more in credit to a person that will use the credit to provide goods or services in the energy sector in Iran. DGS is required to provide notification to each person that it intends to include on the list at least 90 days before adding the person to the list.

In accordance with Section 2204 of the California Public Contract Code, the undersigned hereby certifies that

It is not identified on a list created pursuant to Section 2203(b) of the California Public Contract Code as a person engaging in investment activities in Iran described in Section 2202.5(a), or as a person described in Section 2202.5(b), as applicable; or

It is on such a list but has received permission pursuant to Section 2203(c) or (d) to submit a bid or proposal in response to this RFQ HSR 13-07 Right of Way Engineering and Surveying Services.

_____ _____
Signature Date

_____
Printed Name

_____
Printed Title

_____
Contractor(s)

*Note: Providing a false certification may result in civil penalties and sanctions.*

*Duplicate this form so that it is signed by the Contractor and all joint venture members of the Contractor (if applicable).*

## Cert. 5: Contractor Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification

### Primary Covered Transactions

This certification applies to the offer submitted in response to this solicitation, and will be a continuing requirement throughout the term of the contract.

In accordance with the provisions of Appendix A to 49 C.F.R. Part 29, the Contractor certifies to the best of its knowledge and belief, that it and its principals:

Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
Have not within a 3-year period preceding this offer been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction; violation of Federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, state, or local) with commission of any of the offenses enumerated in item b of this certification.
Have not within a 3-year period preceding this offer had one or more public transactions (Federal, state, or local) terminated for cause or default.

(Mark one, below, with an “x”)

☐ Certify to the above ☐ Cannot certify to the above.

If the “cannot certify” box is checked, attach an explanation of the reasons.

The Contractor shall require any subcontractor, at any tier, whose contract is equal to or greater than $25,000 to complete this certification form and retain this requirement throughout the term of the contract. A copy of a certification, for subcontractors, shall be furnished by the Contracting Officer upon request (see Cert. 6).

**Organization Name, Address, and Telephone**

Signature of Team Representative

Printed Name

Title

Date

## Cert. 6: Subcontractor Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification

### Lower Tier Covered Transactions

This certification applies to a subcontract at any tier expected to equal or exceed $25,000, and will be a continuing requirement throughout the term of the contract.

In accordance with the provisions of Appendix B to 49 C.F.R. Part 29, the prospective lower tier participant (subcontractor) certifies to the best of its knowledge and belief, that it and its principals:

Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
Have not within a 3-year period preceding this offer been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction; violation of Federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, state, or local) with commission of any of the offenses enumerated in item b of this certification.
Have not within a 3-year period preceding this offer had one or more public transactions (Federal, state, or local) terminated for cause or default.

(Mark one, below, with an “x”)

☐ Certify to the above ☐ Cannot certify to the above.

If the “cannot certify” box is checked, attach an explanation of the reasons.

**Organization Name, Address, and Telephone**

Signature of Team Representative

Printed Name

Title

Date

**Cert. 7: Non-Collusion Affidavit**

State of _____ §
§
§
County of _____ §

The undersigned declares:

I am the _____ of _____ ,
(Position / Title) (Company)

the party making the foregoing Proposal, and that the Proposal is:

NOT made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation
Genuine and NOT collusive or a sham.

That the Contractor has NOT directly or indirectly induced or solicited any other Contractor to:

Put in a false or sham SOQ; and
Colluded, conspired, connived or agreed with any Contractor(s) or anyone else to put in a sham SOQ or that anyone shall refrain from bidding.

That the Contractor has NOT, in any manner directly or indirectly, sought by agreement, communication or conference with anyone to:

Fix the Price Proposal of the Contractor or any other Contractor, or
Fix any overhead, profit, or cost element, or that of any other Contractor, or
Secure any advantage against the public body awarding the contract or anyone interested in the proposed contract.

That all statements contained in the SOQ are true.

The Contractor has not and will not, directly or indirectly, for the purposes of effectuating a collusive or sham negotiation, submitted his or her schedule of rates or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, for payment to any corporation, partnership, company, association, organization, bid depository, or any member or agent thereof.

I have the full power to execute, and do execute this declaration on behalf of

_____
(Contractor)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on the _____ day of _____`_____ ,

20 _____ at _____, _____ .
(City) (State)

_____
Signature of Affiant

Subscribed and sworn to before me on this _____day of _____, 20 _____

at _____ , _____ .
(City) (State)

Seal of Notary Public or
Officer Taking Oath

_____
Signature of Notary Public or
Officer Taking Oath

## Cert. 8: Equal Employment Opportunity Certification

To be executed by the Contractor, all joint venture members of the Contractor (if any), and all Subcontractors.

The undersigned certifies on behalf of _____ that:

_____
(Name of entity making certification)

Check one of the following boxes:

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 C.F.R. Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 C.F.R. Part 60-2 (Affirmative Action Programs).

Check one of the following boxes:

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114, or 11246, and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Entity Name: _____

Signature: _____

Title: _____

Date: _____

If not the Contractor, relationship to the Contractor: _____

## Cert. 9: Non-Discrimination Certification

In accordance with Title VI of the Civil Rights Act, as amended; 42 U.S.C. § 2000d, the Contractor agrees that it will not discriminate against any individual because of race, color, national origin, or sex in any activities leading up to or in performance of the contract for Right of way Engineering and Surveying Services.

| | **Organization Name, Address, and Telephone** |
|---|---|
| Signature of Team Representative | |
| Printed Name | |
| Title | |
| Date | |

## Cert. 10: Certification Regarding Lobbying

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

No federal appropriated funds have been or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
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 this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
The undersigned shall require that the language of this 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.

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

Executed this _____ day of _____, 20 _____.

Company Name: _____

By: _____
(Signature of Company Official)

_____
(Title of Company Official)

*Note: If Contractor is a joint venture, each joint venture member shall provide the above information and sign the certification.*