

DELAWARE DEPARTMENT OF TRANSPORTATION

REQUEST FOR PROPOSALS



Delaware Department
of Transportation

AGREEMENT NO. 1701

On-The-Job Training (OJT) Supportive Services

PROPOSAL DUE DATE/TIME: 3:00 P.M. Tuesday, July 1, 2014

Request for Proposals are to be delivered to Contract Administration, Delaware Department of Transportation, 800 Bay Road, Dover, Delaware 19903 until **3:00 PM** local time on proposal due date shown above.

Issued: June 6, 2014

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REQUEST FOR PROPOSALS

ON THE JOB TRAINING (OJT) SUPPORTIVE SERVICES CONSULTANT

1. OVERVIEW AND AUTHORITY

1.1. Purpose

This Request For Proposals (RFP) is issued by the Delaware Department of Transportation (hereinafter designated as 'Department') for the purpose of selecting a firm for a three (3) year period to provide the necessary materials, labor, and equipment to perform supportive services to participants in the Department's On-the-Job-Training (OJT) program on a statewide basis in accordance with the federal guidelines, the Department's OJT Program guidelines, and as directed by the Department.

The Department retains the right to utilize other agencies, consultants, and service providers to provide assistance to Program participants when needed.

1.2. Intent

The intent of this proposal request is to secure qualified consultants that have proven ability to perform the services described. The Department intends to select one consultant to provide these services. The agreement is for a three-year period contingent upon consultant performance and program funding. The Department reserves the right to terminate this agreement for any reason upon written notification to the consultant. Selection is not based solely on price.

1.3. Scope

This document contains general information relating to the procedural requirements in the preparation of proposals to the Department, performance requirements and proposer characteristics, which must be met in order for a proposal to receive consideration.

1.4. Authority

This Request for Proposals is issued pursuant to 29 Del C §6982 (b).

1.5. Inquiries

Should proposers have any questions as to the intent or meaning of any part of this proposal, they must contact the Department as indicated below no later than one week prior to proposal due date to guarantee a reply. **Responses to questions concerning the RFP, submissions, and procedures** may be obtained by submitting your questions to the DOT Professional Services mailbox at DOT.Profservices@state.de.us or via telephone at (302)760-2531.

Questions and answers (not identities) will be shared with all proposers on the following Website: www.bids.delaware.gov as addendums. It is the responsibility of the proposer to check the website often for addendums, questions and answers, and other information concerning this solicitation. All inquiries concerning this RFP must be submitted to the address shown below. No other Department, Division, or employee may be contacted, and responses from such other person shall have no effect on this solicitation.

Ms. Wendy B. Henry, Consultant Control Coordinator
Contract Administration
Delaware Department of Transportation
800 Bay Road
Dover, Delaware 19901
(302) 760-2531

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

Questions should be submitted in the following format.

- Section number
- Paragraph number
- Page number
- Text of passage being questioned
- Question

1.6. Right to Amend

The Department reserves the right to amend or supplement this RFP, giving equal information and cooperation by way of an issued addendum to all consultants as a result of any such amendment.

1.7. Liability for Errors

While the Department has used considerable efforts to ensure an accurate representation of information in this RFP, the information contained in the RFP is supplied solely as a guideline for all consultants submitting responses.

The information is not guaranteed or warranted to be accurate by the Department nor is it necessarily comprehensive or exhaustive.

Consultants acknowledge and understand that it is their responsibility to obtain clarifications concerning this RFP through the Questions and Answers process prior to the date listed in Section 1.10, and that failure to understand the terms of the RFP will not be considered a valid reason for any resulting non-compliant rating.

1.8. Use of the RFP

The RFP document or any portion thereof may not be reproduced or used for any purpose other than the preparation of proposal submissions by the consultant.

1.9. Consultant's Expenses

Consultants shall be solely responsible for any liability or expenses they incur in preparing, delivering, or presenting a response to this RFP, and for subsequent negotiations with the Department, if any. All consultants shall fully bear the costs associated with pre-agreement activities including, but not limited to, proposal preparation, negotiations, and/or proposed agreements.

1.10. Timeline

Provided below is a list of critical dates and actions. These dates are subject to change. Notice of changes will be posted of the State of Delaware Bid Solicitation Directory at www.bids.delaware.gov under this RFP number. It is the responsibility of all interested Consultants to monitor this site for any changing information prior to submitting your proposal.

Action/Location	Date	Local Time
RFP Advertisement	6/06/2014	8:00 am
Final Date to Submit Questions	6/24/2014	3:00 pm
RFP Submissions Due	7/01/2014	3:00 pm
Anticipated Award	8/29/2014	4:30 pm

2. AGREEMENT REQUIREMENTS

2.1. Formal Agreement

The Consultant shall promptly execute an agreement prepared by the Department that shall incorporate the terms of this RFP within twenty (20) days after award, unless an extension of time is mutually agreed upon by both parties. The Consultant is not to begin any work prior to receipt of a written Notice To Proceed (NTP) from the Department's Contract Administration group. The proposals submitted by the Consultant become a part of the agreement. Submission of a proposal in response to this RFP indicates acceptance of all of the terms and conditions contained herein.

2.2. Terms of Agreement

The following agreement terms shall be included in the Consultant's agreement with the Department:

- 2.2.1. This agreement shall be for a three (3) year term, and all work assignments will be issued on an on-call task order basis and will be at the discretion of the Department and the availability of funding. The agreement award shall be for a period of three years from the date of execution of the agreement. The agreement must be executed with the successful Consultants within 20 days after award. The Department may terminate the agreement at any time upon written notice to the Consultant.
- 2.2.2. The selected Consultant(s) will be expected to enter negotiations with the State of Delaware, which will result in a formal agreement between parties. This RFP and the selected Consultant's response to this RFP will be incorporated as part of any formal agreement.
- 2.2.3. **The DBE Program Office has set a fifteen percent (15%) DBE Goal** on federally funded tasks issued under this agreement. Tasks will be evaluated independently for potential DBE participation. DBE firms must be certified through the Department's DBE Program in order to qualify towards meeting this goal. Candidate firms should become familiar with the Department's [DBE Program](#).

2.2.4. Fee Structures

The Consultant will certify, by signing the agreement, that the Consultant has thoroughly investigated the Department's requirements and shall make no claims for compensation in addition to amounts set forth in the written agreement.

In consideration of the faithful and competent performance by the Consultant of the work and services set forth in this RFP, the Department agrees to pay the Consultant, including any sub consultant expenses, as follows:

- 2.2.4.1. Actual direct salary cost of productive technical personnel, which is defined as salaries paid to productive technical personnel engaged in fulfilling the work and services delineated in the Agreement, plus payroll burdens and approved indirect overhead expenses. No premium for overtime will be paid without prior written Department authorization. Payroll burden and indirect overhead cost shall not be applied to the premium portion of overtime.
- 2.2.4.2. For billing purposes, payroll burden and overhead rate of salaries paid to productive technical personnel are a combined rate based on the actual rate audited in accordance with the Federal Acquisition Regulations (FAR) Part 31 for a set period of time and approved by the Department, or a provisional overhead rate established by the Department. All overhead rate determinations will become a part of the Agreement. Final payment for payroll burdens and indirect overhead under the agreement is subject to audit and will be based on actual costs. The Consultant's combined FAR Part 31 audited payroll burden and overhead rate shall be submitted to the Department annually within six months from the end of their fiscal year. Failure to submit a FAR audited rate in a timely manner will result in deduction of overhead payments until such time as the proper audited report is submitted. Rate preparation and audit costs are not chargeable to the project.
- 2.2.4.3. Reasonable reimbursable direct non-salary costs attributed to the project are as follows:
 1. Lodging and subsistence, actual cost not to exceed CONUS (Continental United States) per diem rates set for the location by the U.S. General Services Administration, and pre-approved by the Department.
 2. Mileage will be reimbursed in accordance with the Consultant's written policy for mileage reimbursement. It shall represent the actual amount of reimbursement paid to employees for mileage, and only for approved project related mileage properly documented by a trip log. In no case can the rate exceed the U.S. General Services Administration (GSA) rate established for the year in which work is being performed. Said mileage will not include commuting to or from work. For measurement purposes, the point of beginning shall be taken from the official place of business for each of the Consultant's employees.
 3. Procurement of any goods, services or documents not specifically listed above will require prior written approval from the Department.
- 2.2.4.4. Cost plus fixed fee for profit payments shall be made for performance of work described in the RFP. The fixed fee for profit shall be negotiated based on current Department policy on a task-by-task basis, or when the overhead rate is set or adjusted by the Department. The amount for fixed fee for profit shall not be expressed as a percentage in either the proposal or subsequent billings. Fixed fee for profit shall not be permitted on non-salary direct costs. Payments for fixed fee for

profit are subject to review by the Department and must be supported by monthly progress reports showing an acceptable percentage of work completed as verified by a certified progress report.

- 2.2.5. The proposals submitted by the successful Consultants may become an addendum to the agreement signed by the successful Consultants, and the proposal must be valid for a minimum of one hundred twenty [120] days from the proposal due date.
- 2.2.6. By submitting a proposal, the proposing Consultant agrees that in the event it is awarded an agreement, it will indemnify and otherwise hold harmless the State of Delaware, its agents and any employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the Consultant's, its agents and employees' performance of work or services in connection with the agreement.
- 2.2.7. The Consultant recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the Consultant's negligent performance under this agreement, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the Consultant in their negligent performance under this agreement
- 2.2.8. In meeting this obligation the Consultant shall secure and furnish the Department a certificate of insurance evidencing regular Liability, Property Damage, Worker's Compensation, Automobile, and Errors and Omissions insurance coverage from an insurance company authorized to do business in the State of Delaware. The minimum amounts of coverage for property damage and personal injury shall be \$1,000,000 combined single limit. Errors and Omissions insurance coverage shall be for a minimum of \$1,000,000. The insurance company shall be authorized to do business in the State of Delaware. The successful Consultants shall provide the Department with 30 days' notice in the event the policy is cancelled or not renewed.
- 2.2.9. The Consultant shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this agreement. The Consultant and its officers, employees, or agents are independent contractors and are not employees of the State of Delaware.
- 2.2.10. The selected Consultant shall secure and furnish the Department a certificate of insurance evidencing regular Liability, Property Damage, Worker's Compensation, and Automobile insurance coverage from an insurance company authorized to do business in the State of Delaware. The State of Delaware- Department of Transportation shall be named a certificate holder on the certificates of insurance. The insurance agency shall provide the Department with 30 days' notice in the event the policy is canceled or not renewed.
- 2.2.11. During the term of this agreement, the Consultant shall, at its own expense, carry insurance minimum limits as follows:

a.	Commercial General Liability	\$1,000,000 per person and \$3,000,000 per occurrence
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And at least one of the following, as outlined below:

b.	Medical or Professional Liability	\$1,000,000/\$3,000,000
c.	Misc. Errors and Omissions	\$1,000,000/\$3,000,000
d.	Product Liability	\$1,000,000/\$3,000,000

The successful Consultant must carry (a) and at least one of (b), (c), or (d) above, depending on the type of Service or Product being delivered.

If the contractual service requires the transportation of departmental clients or staff, the Consultant shall, in addition to the above coverage's, secure at its own expense the following coverage;

a.	Automotive Liability (Bodily Injury)	\$100,000/\$300,000
b.	Automotive Property Damage (to others)	\$ 25,000

The Consultant shall provide a Certificate of Insurance (COI) as proof that the Consultant has the required insurance. The COI shall be provided prior to agency contact prior to any work being completed by the awarded Consultant(s).

- 2.2.12. Notwithstanding the information contained above, the successful Consultant(s) shall indemnify and hold harmless the State of Delaware, the DDOJ, and its employees from contingent liability to others for damages because of bodily injury, including death, that may result from the successful Consultant(s) negligent performance under this agreement, and any other liability for damages for which the successful Consultant(s) is required to indemnify the State, the DDOJ and its employees under any provision of this agreement.
- 2.2.13. In performing the services subject to this RFP the successful Consultant agrees that it will not discriminate against any employee or applicant for employment because of race, creed, color, sex, or national origin. The successful Consultants shall comply with all federal and state laws and policies pertaining to the prevention of discriminatory employment practices. Failure to perform under this provision constitutes a material breach of contract. Appendix A of this RFP contains a statement of Federal Contract Provisions which includes, among other subjects, details related to civil rights.
- 2.2.14. The successful Consultant shall certify that it has not employed or retained any company or person other than a bona fide employee working for the successful Consultant, to solicit or secure the agreement and that he has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making this agreement. For breach or violation of this warranty, the Department shall have the right to annul this agreement without liability or in its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee. Notwithstanding anything in the errors and omissions policy to the contrary, the standard of performance with which the successful Consultant(s) must comply is that degree of care and skill ordinarily exercised under similar conditions by other like Consultants currently practicing in this state.

- 2.2.15. The Laws of the State of Delaware shall apply, except where Federal Law has precedence. The successful Consultant(s) consents to jurisdiction and venue in the State of Delaware.
- 2.2.16 The successful Consultant must have a valid Delaware business license in order to receive payment for services.
- 2.2.17 If the scope of any provision of this agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the agreement shall not hereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to law.
- 2.2.18 The Department reserves the right to annul any agreement if, in its opinion, there is a failure at any time to perform adequately the stipulations of this invitation to respond, and the general conditions and specifications which are part of these proposals, or in any case of any attempt to impose upon the Department services of an unacceptable quality. Any action taken in pursuance of this latter stipulation shall not affect or impair any rights or claim of the Department to damages for the breach of any covenants of the agreement by the contractor.
- 2.2.19 If the Consultant to whom the award is made fails to enter into the agreement as herein provided, the award will be annulled, and an award may be made to another Consultant. Such Consultant shall fulfill every stipulation embraced herein as if they were the party to whom the first award was made.
- 2.2.20 Performance Requirements - The selected Consultant will warrant that it possesses, or has arranged through subcontractors, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all Federal and State laws, and County and local ordinances, regulations and codes.
- 2.2.21 This RFP (including any written questions and Department responses), the executed agreement between the successful Consultant and the Department, and the successful Consultant's proposal, shall constitute the agreement between the Department and the Consultant. In the event there is any discrepancy between any of these agreement documents, the following order of documents govern so that the former prevails over the latter: Agreement, RFP (including written questions and answers), any addendum to the RFP, and then the selected Consultant's proposal. No other documents shall be considered. These documents contain the entire agreement between the Department and the Consultant.
- 2.2.22 With respect to work provided to or conducted for the State by a Consultant, the Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished to the State by the selected Consultant, or any of its subcontractors.
- 2.2.23 The selected Consultant shall follow practices consistent with generally accepted professional and technical standards.
- 2.2.24 The selected Consultant shall be responsible for ensuring that all services, products and deliverables furnished to the State are coordinated with the Department and are consistent with practices utilized by, or standards promulgated by State of Delaware.
- 2.2.25 If any service, product or deliverable furnished by the selected Consultant does not conform to Department standards or general practices, the Consultant shall, at its

- expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform to Department standards or practices
- 2.2.26 The selected Consultant is prohibited from divulging any information attained during the work activities for the Department.
- 2.2.27 Should the selected Consultant fail to furnish any item or items, or fail to complete the required work included in the agreement, the Department reserves the right to withdraw such items or required work from the operation of the agreement without incurring further liabilities on the part of the Department.
- 2.2.28 Access to Records - The Consultant shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this agreement and make such materials available at its offices at all reasonable times during the period of this agreement and for a minimum period of three years after final payment by the Department and shall make the material available upon request for inspection and audit by the Department. The Consultant is required to comply with all reasonable requests and supply information and documentation pertaining to this project to Department authorized auditors.

2.3. Debarment or Suspension

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended is ineligible to bid. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

3. PROJECT REQUIREMENTS

3.1. OJT/SS Program Plan

A written OJT Supportive Services Program that is formulated in accordance with 23 CFR part 230, and with the direction of the Department's Civil Rights office must be submitted by the selected consultant to the Department for review and approval within 90 day of issuance of the written notice to proceed (NTP) from the Contract Administration office. The written plan must incorporate all items outlined in the PROJECT REQUIREMENTS.

3.2. Participant/Client Needs Assessment

Within thirty (30) days after the written OJT Supportive Services Program is approved by the Department, the selected consultant will create, make available, and start administering needs assessments to evaluate current OJT participant's skills, and areas of need to determine their ability to obtain and successfully hold a position in the highway construction/transportation industry. Personal information such as age, race, gender, and dependent information must be captured, as well as education and training, work experience, and other pertinent information that will aid in determining assistance that may be required, and that can be provided by the OJT Supportive Services Program.

3.3. Life Skills/Educational Training Assistance

The selected consultant will be required to provide assistance to program participants based on the results of the needs assessments. The assessment must indicate the level of

knowledge, skills and experience the participant has, so that a path toward a successful career can be established.

Within six months of program entry, a participant must have a plan on file with the OJT/SS consultant, which includes specific targets, objectives, and goals for training and career development during the next two years. The consultant is required to assist the participant with development of the plan.

The selected consultant shall provide assistance to participants in the following areas: resume building, filling out job applications, job search and interview techniques, communication, networking and writing business letters, language skills English as a Second Language (ESL), equal opportunity, safety and computer training. This is not an exhaustive list.

The selected consultant will provide educational assistance that includes counseling, classroom and online training, workshops, one-on-one assistance, and when appropriate, referrals to other service providers.

3.4. Financial Assistance for Participants

The selected consultant must ensure that the needs assessments determine what financial assistance is required in order for the participant to maintain employment once a job offer has been received. Areas of financial assistance include, but are not limited to, transportation costs, childcare, health assessments/physicals, and purchase of safety or other required equipment. The OJT Supportive Service consultant must document and verify the need for such assistance and make arrangements for such. The amount allotted for each participant will be based on need, and the availability of funding. All pertinent records and documentation must be provided by the participant when requested, and maintained on file by the OJT/SS Consultant. The written OJT Supportive Services Program Plan must detail the procedures related to this process.

3.5. Participant Termination

A participant's supportive services can be discontinued if, over a two year period, he or she does not (1) engage in practices that apply learned skills within a reasonable period of time, or (2) actively pursue finding jobs if unemployed. Termination will also occur if a participant intentionally misrepresents information, or provides fraudulent documents or receipts. We may choose to pursue legal remedies against a participant who intentionally attempts to defraud the Department.

3.6. Participant Monitoring

The selected consultant is required to monitor and record the outcome of training and/or assistance provided to participants. Information must be used to adjust participant plans as deemed appropriate. Monitoring can be accomplished by maintaining written (US Postal and email), and oral (phone, face-to-face) contact with participants. The consultant is required to maintain contact with participants for a minimum of 6 months after any training is complete, and for as long the participant remains in the OJT program. The consultant will maintain detailed records of each participant in a format that allows easy export and data sharing functionality with other data sources. Job classification for each participant hired shall be detailed and reported monthly.

3.7. Participant Job Placement Services

The selected consultant is required to partner and/or collaborate with the Delaware Department of Labor (DDL), community based organizations, colleges, universities, technical schools, and others that have training programs and job placement programs in order to increase the number of OJT Supportive Services participants receiving services. The OJT Supportive Services consultant must contact potential employers to inform them of available trainees, and to invite them to post their open positions with OJT Supportive Services partners. The consultant will also be required to participate in job fairs with the intent of placing women and minorities in transportation industry related positions.

3.8. Outreach

The selected consultant is required to develop and launch an effective outreach program to increase knowledge and awareness of the OJT Supportive Services Program in Delaware.

3.9. Start Date

The Department anticipates a start date as soon as possible after issuance of a Notice to Proceed.

3.10. Project Personnel and Resources

The OJT Supportive Services consultant's team will consist of a project manager, business consultants, marketing and outreach consultant, technical support, and administrative/project support. The Consultant's project manager shall be experienced in the type of work noted in this RFP, and will be the Department's point of contact for all matters related to the agreement. The project manager shall be approved by the Department and shall be the official representative of the Consultant for the purpose of receiving and carrying out the instructions of the Department and DelDOT Program Manager and otherwise acting for the Consultant in any and all matters arising under the agreement. The name of the designated representative shall be submitted to the Department's Program Manager for approval within seven (7) days after award of the Contract.

The Department can provide meeting and training facilities, and will dedicate time in support of the program by providing guidance and oversight to the consultant, and attending meetings and workshops presented by the consultant to discuss specific issues and general OJT opportunities.

3.11. Project Monitoring and Evaluation for Participants and Service Providers

The Department will monitor activity and measure the program's success on an ongoing basis. Information may be collected via phone, during site visits, consultant monthly performance reports, annual program reviews or any method the Department deems appropriate. Concerns and issues will be identified and addressed in a timely manner with the OJT/SS provider. All findings will be documented by the Department in quarterly reports and communicated to the OJT/SS consultant.

The OJT/SS project manager will communicate with participants, contractors and those receiving services and will assess the quality of services received. The OJT/SS project manager will communicate the results to their subconsultants and/or other service

providers monthly to identify needed improvements, and to provide redirection if needed. Documentation of such must be included in monthly reports to the Department

3.12. Reporting

The consultant will submit monthly, quarterly, and annual activity reports to the Department. Those reports will include, but not be limited to, performance measure results including names and total number of individuals trained and assisted, individuals employed, those placed in highway construction jobs , potential trainees enrolled in job placement services, and employers utilizing job bank and referral services. Any other activities and accomplishments and concerns or barriers to goal accomplishment must be reported.

3.13. Data Management

The consultant will be required to maintain data electronically via a current system, a system developed by the consultant, or a system developed or acquired by the Department. The Department must approve any system in advance of use for this program.

Data to be maintained includes, but is not limited to, participant profiles, training data, assessment results, training results, financial assistance, each encounter/contact with participant, partnerships and the nature of such, events sponsored and attended with demographic data.

All information and any systems developed and/or purchased as a result of the Department's OJT Supportive Services Program becomes the sole property of the Department.

4. PROPOSAL REQUIREMENTS

4.1. Written Proposals

Proposals should be prepared simply and economically, providing a straightforward, concise description of proposer capabilities to satisfy the requirements of this proposal. To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFP using the requested format. Emphasis should be on completeness and clarity of contents. Proposal responses will be expected to address the following areas; the submission should be tabbed and collated in the following order:

- A. Cover Letter – Two pages maximum - Each proposal shall have a cover letter on the letterhead of the Consultant submitting the proposal. The covers letter should be signed by the individual authorized to commit the company to the work being proposed. At the top of the first page, **list the Consultant Representative's Name, Telephone Number and e-mail address**. This will be the main contact representing the proposer.
- B. Experience – Two pages maximum - The Consultant shall submit information demonstrating the Consultant's qualifications, experience of key employees, and list the number of employees by job title.

- C. Company Facilities - The proposer's business history to include the number of years in operation; number of offices on a national, state, or local level and the address and name of each; the number of employees located at each office.
- D. References – List three (3) references, company names, contact names and phone numbers. By providing such information, the Consultant grants the Department permission to contact these individuals.
- E. Stipulations / Exceptions – A listing of any and all stipulations or exceptions taken to any item in this proposal. The Department reserves the right to reject any stipulations and/or exceptions taken.
- F. Contractual Expectations – List any contractual provisions which the proposer expects the Department to agree. NOTE: The Department will issue the Agreement covering this work.
- G. Certification – The Certification forms included in Appendix A must be filled out, signed, attested, notarized, sealed, and attached to the original proposal submission.

4.2. Submission of Proposals

The Department will receive sealed proposals until the date and time indicated in Section 1.10 as described in this Proposal. Proposals must be delivered and addressed as indicated. Proposals will be opened and only the names of the submitting consultants publicly read on the date and time indicated. Facsimile responses to this Request for Proposal are not acceptable.

4.3. Proposal Due Date/Time – 3:00 P.M. Tuesday, July 1, 2014 (local time)

Request For Proposals are to be delivered to Contract Administration, Delaware Department of Transportation, 800 Bay Road, Dover, Delaware 19903. Proposals must be delivered in sealed envelopes and be clearly marked on the outside: "**OJT Supportive Services Proposal**". Proposals can be either delivered via courier or Delivered by Hand.

4.4. Extensions

The Department may extend the time and place for the receipt and opening of proposals, on not less than two (2) calendar days' notice, by certified delivery, facsimile machine or other electronic means to those bidders who obtained copies of the specifications or descriptions.

4.5. Submitted Copies

One (1) original (so marked) and five (5) copies of the Proposal must be submitted. An authorized representative of the company submitting a proposal must sign the original proposal. Notification of the proposal award and all communications will be made by e-mail.

4.6. Cost of Proposals

The proposers shall be responsible for any liability or cost incurred in connection with responding to this request for proposal. All Consultants shall fully bear the costs associated with pre-agreement activities, including proposal preparation, negotiations, and/or proposed agreements.

4.7. Confidentiality

In order to comply with the State of Delaware’s Freedom of Information Act, Consultants responding to this Request for Proposals **shall prepare and submit one (1) electronic copy (e.g. CD, flash drive) of their Proposal with any proprietary or confidential information redacted.** This copy should be **clearly marked as “Redacted Copy”** and submitted along with the other copies. **This electronic copy is required even if the submission contains no proprietary or confidential information.** Consultants should review Delaware’s Freedom of Information Regulations, Section 6, Requests for Confidentiality, on the Department’s Website www.deldot.gov and Section 10002(1) “Public record” of the Delaware Code, <http://delcode.delaware.gov/title29/c100/index.shtml> to determine what information may be considered proprietary or confidential and may be redacted from their submission.

4.8. Proposal Rejection

Failure to follow instructions contained in this document may be cause for rejection of submitted proposals.

5. SELECTION AND AWARD PROCESS

5.1. Selection Committee

The Selection Committee shall be comprised of State employees. The Selection Committee shall review all proposals submitted in response to this RFP, may negotiate with one or more of these Consultants.

5.2. Proposal Review

The proposals must contain all the essential information in which the award decision shall be made. The information that is required to be submitted in response to this RFP has been determined by the Department to be essential for use by the Committee in the evaluation and award process. Therefore, all instructions contained in this RFP shall be met in order to qualify as a responsive and responsible proposer and participate in the Selection Committee’s consideration for award. Proposals that do not meet or comply with instructions of this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Committee.

5.3. Evaluation Process

The Selection Committee shall determine the Consultants that meet the minimum requirements pursuant to criteria of the RFP. The Committee may negotiate with responsible offerors who submit proposals found to be reasonably likely to be selected for award. The Committee may request best and final offers from one or more Consultants, and may amend the proposal before award for this purpose. The Committee may, at its discretion, terminate negotiations with any or all Consultants. The Committee will score and rank accepted proposals. The Committee shall make a recommendation to the Division Director, to award an agreement to the successful Consultant(s) in the best interests of the State of Delaware.

5.4. Selection Criteria

The Selection Committee shall score each accepted proposal and assign up to the maximum number of points as stated in this Section for each Evaluation Item to each of the accepted proposing Consultants. All assignments of points shall be at the sole discretion of the Selection Committee members.

- 5.4.1. All accepted proposals shall be evaluated using the same criteria and scoring process. The following criteria shall be used by the Committee to evaluate proposals:

Evaluation Item	Maximum Points
Experience of Consultant	50
Pricing	25
Data management system/capability	20
Completeness of Submission/Clarity/Readability	5

- 5.4.2. Each Selection committee member will score each Consultant as provided on the Score sheet. The total scores of each proposal from each Selection Committee member will be ranked from highest to lowest (highest score receives ranking of 1).
- 5.4.3. At the conclusion of ranking by the Selection Committee, a preliminary list will be compiled, in the order of ranking, of the most responsive and responsible proposals. This will be the Committee's recommendation for award.

5.5. Award

The Department intends to award the agreement to the most responsive and responsible Consultant(s). The Department, within 20 days from date of receipt of proposals, shall make this award in writing and for the selected Consultant (s). If a successful Consultant cannot be chosen, all proposals will be rejected in this same time period.

5.6. Department Rights

The Department reserves the right to:

- Select for agreement or for negotiations a proposal other than that with the lowest costs;
- Reject any and all proposals received in response to this RFP;
- Make no award;
- Issue a new RFP;
- Waive any informalities, irregularities, or inconsistency in proposals received;
- Request modification to proposals from any or all proposers during the review and negotiation;
- Negotiate any aspect of the proposal with any Consultant and negotiate with more than one Consultant at the same time;
- Make partial awards;

- Increase or decrease quantities;
- Reject any request that shows any omission, alterations of forms, additions not called for, conditions, or alternate proposals;
- Deny any and all exceptions to the RFP requirements;
- Reject any non-responsive or non-conforming proposals;
- Make any such award as is deemed to be in the best interest of the State of Delaware.

5.7. REQUIRED FORMS

The following completed forms are required to be returned with each proposal:

- **Certification of Eligibility**
- **Certificate Of Non-Collusion**
- **Certification Of Primary Participant Regarding Debarment, Suspension, And Other Responsibility Matters**
- **Certification Of Restrictions On Lobbying**

APPENDIX A

CERTIFICATION FORMS

REQUEST FOR PROPOSAL No. 1701

ON THE JOB TRAINING (OJT)
SUPPORTIVE SERVICES CONSULTANT

CERTIFICATION OF ELIGIBILITY

Delaware Department of Transportation

Request for Proposal Number 1701 – OJT Supportive Services

Attention: Wendy B. Henry, Contract Administration
Delaware Department of Transportation
800 Bay Road
Dover, DE 19901

We have read Request for Proposal Number 1701 and fully understand the intent of the RFP as stated, certify that we have adequate personnel and knowledge to fulfill the requirements thereof, and agree to furnish such services in accordance with the contract documents as indicated should we be awarded the contract.

_____ hereby certifies that it is not included on the United States Comptroller General's Consolidated List of Persons or Firms Currently Debarred for Violations of Various Public Contracts Incorporating Labor Standard Provisions.

Signed: _____

Title: _____

Date: _____

Sworn and subscribed before me this _____ day of _____, 2014.
My commission expires _____.

Notary Public

CERTIFICATE OF NON-COLLUSION

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

- 1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting to such prices, with any other bidder or with any competitor;
- 2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
- 3) No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

Company Name

Authorized Signature

Date

Sworn and subscribed before me this _____ day of _____, 2014.
My commission expires _____.

Notary Public

CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

The Primary Participant (applicant for an FTA grant or cooperative agreement, or potential contractor for a major third party contract), _____ certifies to the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- 2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- 4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or Local) terminated for cause or default.

If the primary participant (applicant for an FTA grant or cooperative agreement, or potential third party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

The Primary Participant (applicant for an FTA grant or cooperative agreement, or potential contractor for a major third party contract), _____ certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Sections 3801 et seq. are applicable thereto.

Signature and Title of Authorized Official

Date

CERTIFICATION OF RESTRICTIONS ON LOBBYING

The Bidder or Offeror certifies, to the best of its knowledge and belief, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. 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 thereof.

- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to 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 (as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)).

- 3) 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 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 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

THE BIDDER OR OFFEROR, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE BIDDER OR OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

_____ Signature of the Bidder or Offeror's Authorized Official

_____ Name and Title of the Bidder or Offeror's Authorized Official

_____ Date

FEDERAL CONTRACT PROVISIONS

FTA's Master Agreement contains a current, but not all-inclusive, description of statutory and regulatory requirements that may affect a recipient's procurement (such as Disadvantaged Business Enterprise (DBE) and Clean Air requirements). The Master Agreement states that applicable Federal requirements will apply to project participants to the lowest tier necessary to ensure compliance with those requirements. A recipient will also need to include applicable Federal requirements in each subagreement, lease, third party contract, or other document as necessary. For specific guidance on cross-cutting requirements administered by other Federal agencies, FTA recommends that the recipient contact those agencies.

The requirements listed herein must be adhered to by any firms selected to perform work required under these agreements.

1. AUDIT AND INSPECTION OF RECORDS

The Contractor agrees to provide the Delaware Department of Transportation (Department), the FTA 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. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold.

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.

2. ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES

The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. Section 12101 *et seq.* And 49 U.S.C. Section 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. App. Section 1612; and implementing regulations, as may be amended

3. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – Lower Tier Covered Transactions (Third Party Contracts over \$100,000)

- a) By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.
- b) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later

- c) determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may pursue available remedies, including suspension and/or debarment.
- d) The prospective lower tier participant shall provide immediate written notice to the Department if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e) The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “persons,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact the Department for assistance in obtaining a copy of those regulations.
- f) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the Department.
- g) The prospective lower tier participant further agrees by submitting this proposal that it will include the clause “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction”, without modification, in all lower tier covered transactions.
- h) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the No procurement List issued by the U. S. General Service Administration.
- i) Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j) Except for transactions authorized under Paragraph E of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the Department may pursue available remedies including suspension and/or debarment.

- k) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its “principals” [as defined at 49 CFR §29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- l) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

4. CLEAN WATER REQUIREMENTS

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 Department and understands and agrees that the Department will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. (2)The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

5. FEDERAL CHANGES

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the [Master Agreement](#) between the Department and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

6. CLEAN AIR

(1) 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 Department and understands and agrees that the Department will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

7. ENERGY CONSERVATION

The Contractor shall recognize 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 US Section 321 et seq.).

8. CONTRACT TERMINATION

a) Termination for Convenience

The Department may terminate this contract, in whole or in part, at any time by written notice to the Contractor. The Contractor shall be paid its costs, including contract close-out costs, and profit on product delivered up to the time of termination. The Contractor shall promptly submit its termination claim for payment. If the Contractor has any property in its possession belonging to the Department, the

Contractor will account for the same and dispose of it in the manner the Department directs.

b) Termination for Default

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Department may terminate this contract for default. Termination shall be affected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined that the Contractor had an excusable reason for not performing, such as a strike, flood, events which are not the fault of or are beyond the control of the Contractor, the Department, after setting up a new delivery or performance schedule, may allow the Contractor to continue work, or treat the termination as a termination of convenience.

In the event the Department exercises its right of termination for default, and if an amount for liquidated damages is set forth, the Contractor shall be liable to the Department for excess costs and, in addition, for liquidated damages in the amount set forth, as fixed, agreed, and liquidated damages for each calendar day of delay, until such time as the Department may reasonably obtain delivery or performance of similar supplies or services.

If the contract is so terminated, the Contractor shall continue performance and be liable to the Department for such liquidated damages for each calendar day of delay until the supplies are delivered or services performed.

The Contractor shall not be liable for liquidated damages resulting from delays such as acts of God, strikes, fire or flood, and events which are not the fault of, or are beyond the control of the Contractor.

9. CIVIL RIGHTS

(1) 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 Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office

of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq. , (which implement 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, creed, 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 agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, 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 FTA may issue.

(c) 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 FTA may issue.

(3) The contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. Section 12101 et seq. And 49 U.S.C. Section 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. App. Section 1612; and implementing regulations, as may be amended.

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

10. DISADVANTAGED BUSINESS ENTERPRISES

It is the policy of the Department of Transportation that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 shall have the opportunity to participate in the performance of contracts financed in whole or part with Federal funds under this contract. Consequently the DBE Requirements of 49 CFR Part 26 apply to this contract. The recipient or its contractor agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this contract. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out

applicable requirements of 49 CFR part 26 in the award and administration of FTA assisted subcontracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Department deems appropriate.

The successful bidder agrees to comply with the following clauses:

Prompt Payment: The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the Department. This clause applies to both DBE and Non-DBE subcontractors.

Retainage: The prime contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Department. This clause applies to both DBE and non-DBE subcontractors.

The specific goal for this contract is:

Disadvantaged Business Enterprise **15 Percent**

11. ENVIRONMENTAL VIOLATIONS

The Contractor agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857 (h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11378, and Environmental Protection Agency regulations: (40 CFR, Part 15) which prohibit the use under nonexempt Federal contracts, grants or loans, of facilities included on the EPA List for Violating Facilities. The Contractor shall report violations to the FTA.

12. EQUAL EMPLOYMENT OPPORTUNITY

In connection with the execution of this contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, creed, religion, color, national origin, age, sex or disability. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are tested during their employment without regard to their race, creed, religion, color, national origin, age, sex or disability. Such actions shall include, but not be limited to the following, employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay, or other forms of compensation. The Contractor further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

13. FTA FUNDING REQUIREMENTS

This project may be financed in part by funds from the Federal Transit Administration. Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Department and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

14. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by FTA, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Department requests which would cause the Department to be in violation of the FTA terms and conditions.

15. LOBBYING

The Contractor is required to certify using the Certification of Restrictions on Lobbying Form included that, to the best of his or her knowledge and belief:

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to 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 [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*.)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of the certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.

16. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

(1) The Department and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Department, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

17. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT 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 FTA 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 on the Contractor to the extent the Federal Government deems appropriate.

(2) 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 FTA under the authority of 49 U.S.C. § 5307, 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.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

18. PROTEST PROCEDURES

Protests based upon the award of the contract shall be made in writing to the Contract Services Administrator no later than ten (10) calendar days following the award of the contract. The protest must clearly specify in writing the grounds and evidence on which the protest is based. The protest will be reviewed and decided pursuant to; the proposal documents issued by the Department, the Delaware Code, and the Federal Transit Authority's regulations.

19. RECORD RETENTION

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three 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 Contractor agrees to maintain same until the Department, the FTA 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 CFR 18.39(i)(11).

20. SEISMIC SAFETY

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

21. TITLE VI COMPLIANCE

During the performance of any Contract entered into pursuant to these specifications, the Contractor, for itself, its assignees and successor in interest, agrees that it shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. section 2000d) and the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations Part 21, as they may be amended from time to time which are incorporated by reference and made a part of this contract.

22. INTELLIGENT TRANSPORTATION SYSTEMS

Intelligent transportation system (ITS) property and services must comply with the National ITS Architecture and Standards to the extent required by Section 5307(c) of SAFETEA-LU, FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 FR 1455 et seq., January 8, 2001, and later published policies or implementing directives FTA may issue. Consequently, third party contracts involving ITS are likely to require provisions to ensure compliance with Federal requirements.