

WINDHAM REGION TRANSIT DISTRICT REQUEST FOR PROPOSAL

EMPLOYEE BENEFITS INSURANCE BROKER (AGENT) OF RECORD

General Information

The Windham Region Transit District (WRTD) is seeking proposals for the services of a Broker (Agent) of Record for employee benefits, including but not limited to health, dental and vision. The award of the contract will be for (2) years.

Questions

Any questions or requests for clarification must be made in writing and received by WRTD no later than **4:00 PM, October 12th, 2017**, and must be addressed as follows:

Windham Region Transit District
Attn: John Rayman
28 S. Frontage Dr.
Mansfield Center, CT 06250

Responses will be sent to all potential bidders in the form of an addendum.

Proposals

Two copies of the proposal must be received by WRTD no later than 4:00 p.m., **Friday, October 26, 2017**, and must be addressed as follows:

Windham Region Transit District
Attn: John Rayman
28 S. Frontage Dr.
Mansfield Center, CT 06250

EMPLOYEE BENEFITS PROPOSAL-DO NOT OPEN

Proposals submitted late will be returned. No reimbursement will be made by the WRTD for any costs incurred for preparation of the proposals or required documentation.

In responding to the RFP, proposers should address all of the requirements listed in Section 1, submittal requirements in the format described.

The request for proposal is not an authorization to approach the insurance marketplace. WRTD specifically requests that no contract or solicitation of insurance markets be made on its behalf. Failure to comply with this requirement will be grounds for immediate disqualification.

In submitting this Request for Proposal, it is understood and agreed by bidder that the right is reserved by Windham Region Transit District to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of ninety (90) days subsequent to the opening of bids, without the written consent of Windham Region Transit District representative.

1.0 SUBMITTAL REQUIREMENTS

1.1_ Firm Description

1.1.1 Name

1.1.2 Address of Primary Servicing Office

1.1.3 Telephone Number

1.1.4 Description whether firm is local, regional, national, or international

1.1.5 Account Representative

1.2 Servicing office background information. (This data is requested of every office that will have a substantive ongoing role on the account):

1.2.1 Total Staff

1.2.2 Professionals

1.2.3 Total Premiums Written (\$000's)

1.2.4 Commissions (\$000's)

1.2.5 Fees (\$000's)

1.2.6 If your primary office is organized into service divisions, what department will handle our account.

1.3 Servicing Responsibilities

1.3.1 Who will have primary responsibility and where will he/she be located? List all other professional staff to serve on the account. List professional qualifications and educational background (include detailed resume indicating current and historical account responsibilities).

1.3.2 Support staff: who will assist this person in servicing this business? List title, area of expertise, professional qualifications, WRTD account responsibilities, and educational background for each (attach detailed resume and complete list of clients). Include and list separately the individuals ultimately responsible for the satisfaction of WRTD staff (the person the account representative reports to, if applicable) and the level of the person's involvement for the WRTD account.

- 1.3.5 How does your firm develop your insurance professionals (i.e., do you have any in-house training program, on-the-job training, etc?).
- 1.3.6 Provide a list of references that may be contacted. References should include preferably municipalities, transit authorities and agencies similar to WRTD.
- 1.4 What techniques will you use to assist WRTD in developing current claim information?
- 1.5 Cost Control Services
 - 1.5.1 Can your staff help review claim experience and suggest methods of reducing claims?
 - 1.5.2 What services do you expect to be provided by the insurance carriers, and how do you plan to monitor these services?
 - 1.5.3 Can your staff provide training assistance in these disciplines?
 - 1.5.4 Explain any other ways you have helped clients control or reduce the cost of health and welfare insurances.
- 1.6 Affordable Care Act (ACA) Expertise
 - 1.6.1 What training has been provided to the staff who will handle this business on the ACA?
 - 1.6.2 What training will you offer WRTD staff on the ACA?
 - 1.6.3 Describe how you will assist WRTD in complying with the requirements of the ACA?
 - 1.6.4 Is the firm able to sell plans on the state's insurance exchange?
- 1.7 Insurance Placement Services
 - 1.7.1 Explain how you solicit proposals from carriers and how you propose presenting proposals to WRTD.
 - 1.7.2 Include specific procedures used by your firm to evaluate each insurer in terms of network, ability to process claims, administrative capabilities and customer service.
 - 1.7.3 Issue a statement of willingness to allow the insurance markets to provide copies of their bid proposals to WRTD directly as well as the broker.

1.7.4 What experience does the firm have with Medicare Advantage and supplemental policies? Will the firm be able to assist employees in obtaining these coverages?

1.8 Claims Services

1.8.1 Do you have in-house claims administration expertise? If yes, please describe.

1.8.2 How do you plan to monitor carrier claims procedures?

1.9 Other Services

1.9.1 Describe any special skills or services.

1.10 Broker Compensation

1.10.1 Do you place all insurance gross or net of commission? Describe your firm's position.

1.10.2 If you operate on a fee basis in lieu of commissions, how will the fee be developed? Please provide a not to exceed compensation amount, whether on fee or commission.

1.11 Do you carry professional liability insurance to protect against errors and omissions, and what is the limit?

1.12 Time Requirements

The response must include detailed information on how the respondents plan to meet the time line and reporting deadline requirements of the engagement.

1.13 Enrollment

Please explain how the firm will handle open enrollment for employees of WRTD. What materials will the firm provide to employees (i.e. enrollment packets summarizing all coverages available)? Will the firm meet with employees to discuss coverages?

2.0 MANDATORY QUALIFICATIONS

The following information must be requested from all respondents:

- 2.1 An affirmation that the firm is a properly licensed and registered insurance brokerage firm in the State of Connecticut.
- 2.2 The firm must have a full service office in Connecticut.
- 2.3 An affirmation that the firm does not have a record of substandard work. Respondents must disclose any sanctions imposed by the State of Connecticut Insurance Commission.
- 2.4 An affirmation that firm meets any other specific qualification requirements imposed by state or local law.
- 2.5 The firm must be sound financially and carry adequate professional liability insurance.

3.0 SERVICES REQUIRED

- 3.1 Insurance marketing services are needed for all WRTD liability, property, crime, umbrella, directors and officers. A schedule of insurance policies now in force is included in Appendix A. Services include but are not limited to:
 - 3.1.1 A review and evaluation of WRTD claims.
 - 3.1.2 Preparation of specifications and applications for renewal negotiations.
 - 3.1.3 Evaluating insurers' financial status.
 - 3.1.4 Obtaining bids from various insurance carriers within the guidelines of WRTD's purchasing policy.
 - 3.1.5 Checking the wording and accuracy of each policy, binder, certificate endorsement, or other document received from insurers and obtaining revisions in such documents when needed.
 - 3.1.6 Verifying the accuracy of all rates and premiums charged.
 - 3.1.8 Assisting in performing underwriting analyses of WRTD's employee health and welfare benefits programs.
 - 3.1.9 Providing technical compliance support with regard to COBRA, IRC Section 125 plans, and any other federal/state benefit programs.

- 3.1.11 Being available to answer questions from WRTD management and employees.
- 3.1.14 Notifying WRTD promptly of any changes in the status of the insuring company, financial condition, policy wording, premiums, etc.
- 3.1.16 Performing services in compliance with the laws governed by the State of Connecticut.

3.2 Period of the Engagement

The engagement will consist of a two year contract for the renewal of WRTD insurance programs on an annual basis. The contract will begin December 1, 2017 and end November 30, 2019. WRTD reserves the right to cancel the contract with thirty (30) days notice for convenience or cause.

3.3 Reports Required

- 3.3.1 Broker will provide WRTD two (2) copies of a report including bids of all insurers of each line of insurance and a recommendation as to selection.
- 3.3.3 Broker will provide WRTD with a final summary as to selection of each carrier and premium comparisons from the prior year.

4.0 EVALUATIONS OF SUBMITTALS

The contract will be awarded to the firm who, based on evaluation of all responses, applying all criteria, and oral interviews is determined to be the best qualified to perform the engagement. Cost will be considered in the evaluation.

4.1 Technical factors to be evaluated:

- a. Responsiveness of the proposal clearly stating an understanding of the services to be performed.
- b. Technical experience of the firm including experience on similar engagements.
- c. Qualifications of staff.
- d. Location of servicing office and adequacy of staff.
- e. Quality and clarity of management reporting and record keeping.
- f. References.

4.2 Right to Reject

The Windham Region Transit District reserves the right to reject any and all proposals submitted and may request additional information from all proposers.

4.3 Protest

Any protest regarding the RFP process or award must be submitted to the Windham Region Transit District in writing under the guidelines of the WRTD protest procedures.

4.0 EVALUATIONS OF SUBMITTALS

BROKER PROPOSAL RATING SHEET

INSURANCE FIRM: _____

RATER: _____

	SCORING RANGE	TOTAL POINTS
TECHNICAL CRITERIA		
1. Proposal Evaluation		
a.. Responsiveness of the proposal in clearly stating an understanding of the work to be performed.	(0-15)	
2. Technical experience of the firm		
a. Experience with transit (bus) entities.	(0-5)	
b. Experience with municipalities and other like agencies.	(0-10)	
c. Experience with insurance lines required by WRTD.	(0-10)	
d. Experience with cost control	(0-5)	
3. Qualifications of Staff		
a. Qualifications of account representatives responsible for WRTD account.	(0-20)	
b. General direction/supervision to be exercised over the account representatives by the firm's management staff.	(0-15)	
d. Qualifications of support staff.	(0-10)	
TOTAL TECHNICAL POINTS:	0-90	
COST CRITERIA		
a.. Proposal for cost considerations (fee or commission)	(0-10)	
TOTAL POINTS AWARDED:	0-100	

EXHIBIT A: RECAP OF CURRENT WRTD INSURANCE

WRTD is a transit district that serves the towns of Ashford, Chaplin, Columbia, Coventry, Lebanon, Mansfield, Scotland, Willington and Windham. Service is also provided to Danielson by fixed route.

WRTD operates demand response Dial-a-Ride, ADA Paratransit, Regular Fixed Route, Deviated Fixed Route and Commuter Bus Services. WRTD's annual ridership is approximately 210,000 and annual operating budget of about \$2.1 million.

WRTD's automobile insurance is provided by the State of Connecticut through a consortium.

POLICY TYPE	EFFECTIVE DATES	COVERAGE NOTATIONS
Health	12/1/16 – 11/30/17	Anthem
Dental	12/1/16- 11/30/17	Anthem
Vision	12/1/16- 11/30/17	Anthem

EXHIBIT B

FEDERAL CONTRACT CLAUSES & CERTIFICATIONS

EXHIBIT C

ATTACHEMENT C

STATE OF CONNECTICUT REQUIREMENTS

By way of contract with the State of Connecticut Department of Transportation Windham Region Transit District has agreed to adhere to the following DOT policy and to incorporate the requirement of such policy in all third party contracts. By way of proposal submittal the Offeror hereby agrees to adhere to the policies, statements and regulations contained in this section.

**CONNECTICUT DEPARTMENT OF TRANSPORTATION
POLICY STATEMENT**

POLICY NO. F&A-10
January 6, 2006

SUBJECT: Code of Ethics Policy

The purpose of this policy is to establish and maintain high standards of honesty, integrity, and quality of performance for all employees of the Department of Transportation (“DOT” or “Department”). Individuals in government service have positions of significant trust and responsibility that require them to adhere to the highest ethical standards. Standards that might be acceptable in other public or private organizations are not necessarily acceptable for the DOT.

It is expected that all DOT employees will comply with this policy as well as the Code of Ethics for Public Officials, and strive to avoid even the appearance of impropriety in their relationships with members of the public, other agencies, private vendors, consultants, and contractors. This policy is, as is permitted by law, in some cases stricter than the Code of Ethics for Public Officials. Where that is true, employees are required to comply with the more stringent DOT policy.

The Code of Ethics for Public Officials is State laws and governs the conduct of all State employees and public officials regardless of the agency in which they serve. The entire Code, as well as a summary of its provisions, may be found at the Office of State Ethics’ web site: www.ct.gov/ethics/site/default.asp. For formal and informal interpretations of the Code of Ethics, DOT employees should contact the Office of State Ethics or the DOT’s Ethics Compliance Officer or his designee.

All State agencies are required by law to have an ethics policy statement. Additionally, all State agencies are required by law to have an Ethics Liaison or Ethics Compliance Officer. The DOT, because of the size and scope of its procurement activities, has an Ethics Compliance Officer who is responsible for the Department’s: development of ethics policies; coordination of ethics training programs; and monitoring of programs for agency compliance with its ethics policies and the Code of Ethics for Public Officials. At least annually, the Ethics Compliance Officer shall provide ethics training to agency personnel involved in contractor selection, evaluation, and supervision. A DOT employee who has a question or is unsure about the provisions of this policy, or who would like assistance contacting the Office of State Ethics, should contact the Ethics Compliance Officer or his designee.

**The DOT Ethics Compliance Officer Is:
Ethics:**

Dave F. Crowther, Director
Office of Management Services
**For questions, contact the Ethics
Compliance Officer’s Designee:**
Alice M. Sexton, Principal Attorney
Office of the Commissioner

To contact the Office of State

Office of State Ethics
20 Trinity Street, Suite 205
Hartford, CT 06106
Tel. (860) 566-4472
Fax. (860) 566-3806

2800 Berlin Turnpike
Newington, CT 06131-7546
Tel. (860) 594-3045

Web: www.ethics.state.ct.us

Enforcement

The Department expects that all employees will comply with all laws and policies regarding ethical conduct. Violations of the law may subject the employee to sanctions from agencies or authorities outside the DOT. Whether or not another agency or authority imposes such sanctions, the Department retains the independent right to review and respond to any ethics violation or alleged ethics violation by its employees. Violations of this policy or ethics statutes, as construed by the DOT, may result in disciplinary action up to and including dismissal from State service.

Prohibited Activities

1. **Gifts:** DOT employees (and in some cases their family members) are prohibited by the Code of Ethics and this Policy from accepting a gift from anyone who is: (1) doing business with, or seeking to do business with, the DOT; (2) directly regulated by the DOT; (3) prequalified as a contractor pursuant to Conn. Gen. Stat. &4a-100 by the Commissioner of the Department of Administrative Services (DAS); or (4) known to be a registered lobbyist or a lobbyist's representative. These four categories of people/entities are referred to as "restricted donors." A list of registered lobbyists can be found on the web site of the Office of State Ethics (www.ct.gov/ethics/site/default.asp). A list of prequalified consultants and contractors, i.e., those seeking to do business with the DOT, can be found on the DOT's Internet site under "Consultant Information" and "Construction/Bidding Contracts Menu," respectively.

The term "gift" is defined in the Code of Ethics for Public Officials, Conn. Gen. Stat. &1-79(e), and has numerous exceptions. For example, one exception permits the acceptance of food and/or beverages valued up to \$50 per calendar year from any one donor and consumed on an occasion or occasions while the person paying or his representative is present. Another exception permits the acceptance of items having a value up to ten dollars (\$10) provided the aggregate value of all things provided by the donor to the recipient during the calendar year does not exceed fifty dollars (\$50). Depending on the circumstances, the "donor" may be an individual if the individual is bearing the expense, or a donor may be the individual's employer/group if the individual is passing the expense back to the employer/group he/she represents.

This policy requires DOT employees to immediately return any gift (as defined in the Code of Ethics) that any person or entity attempts to give to the employee(s). If any such gift or other item of value is received by other than personal delivery from the subject person or entity, the item shall be taken to the Office of Human Resources along with the name and address of the person or entity who gave the item. The Office of Human Resources, along with the recipient of the item of value, will arrange for the donation of the item to a local charity (e.g., Foodshare, local soup kitchens, etc.). The Office of human Resources will then send a letter to the gift's donor advising the person of the item's donation to charity and requesting that no such gifts be given to DOT employees in the future.

2. ***Gift Exchanges Between Subordinates and Supervisors:*** A recent change in the Code of Ethics prohibits exchange of gifts valued at \$100 or more between (*i.e.*, to and from) supervisors and employees under their supervision. Advisory opinions of the Citizen Ethics Advisory Board's predecessor, the State Ethics Commission, suggest that, absent any other applicable exception, gifts exchanges between State employees *of any reporting relationship* should be limited to benefits with a cumulative value of less than \$100 *per year* where benefits are given by virtue of the State employee's or public official's office/position.
3. ***Acceptance of Gifts to the State.*** A recent change to the Code of Ethics for Public Officials placed limits on the ability of State employees and public officials to accept "gifts to the State" that facilitate or benefit State action or functions. Before accepting any benefit as a "gift to the State," DOT employees shall contact the Ethics Compliance Officer.
4. ***Charitable Organizations and Events:*** No DOT employee shall, either individually or as a member of a group, directly or indirectly solicit the sale of tickets for a charitable event, or accept any gift, discount or other item of monetary value for the benefit of a charitable organization, from any person or entity seeking official action from, doing or seeking business with, or conducting activities regulated by, the Department, or from any person or entity whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
5. ***Use of Office/Position for Financial Gain:*** DOT employees shall not use their public office, position, or influence from holding their State office/position, nor any information gained in the course of their State duties, for private financial gain (or the prevention of financial loss) for themselves, any family member, any member of their household, nor any "business with which they are associated." In general, a business with which one is associated includes any entity of which a DOT employee or his/her immediate family member is a director, owner, limited or general partner, beneficiary of a trust, holder of 5% or more stock, or an officer (president, treasurer, or executive or senior vice president).

DOT employees shall not use or distribute State information (except as permitted by the Freedom of Information Act), nor use State time, personnel, equipment, or materials, for other than State business purposes.

6. ***Other employment:*** DOT employees shall not engage in, nor accept, other employment that will either impair their independence of judgment with regard to their State duties or require or induce them to disclose confidential information gained through their State duties.

Any DOT employee who engages in or accepts other employment (including as an independent contractor) shall complete an Employment/Outside Business Disclosure Form (see attached) and submit it to the Department's Human Resources Administrator. Disclosure of other employment to the DOT Human Resources Administrator shall *not* constitute approval of the other employment for purposes of the Code of Ethics for Public Officials.

Inquiries concerning the propriety of a DOT employee's other employment shall be directed to the Office of State Ethics to assure compliance with the Code of Ethics for Public Officials. Employees

anticipating accepting other employment as described above should give ample time (at least on month) to the Office of State Ethics to respond to such outside employment inquiries.

No employee of the DOT shall allow any private obligation of employment or enterprise to take precedence over his/her responsibility to the Department.

7. ***Outside business interests:*** Any DOT employee who holds, directly or indirectly, a financial interest in any business, firm, or enterprise shall complete an Employment/Outside Business Disclosure Form (see attached) and submit it to the Department's Human Resources Administrator. Disclosure of such outside business interests to the DOT Human Resources Administrator shall *not* constitute approval of the outside business interest under this Policy or the Code of Ethics for Public Officials. No DOT employee shall have, directly or indirectly, a financial interest in any business, firm, or enterprise doing business with the State of Connecticut which could cause or create a conflict with, or influence the performance of, the employee's duties with the Department.
8. ***Contracts with the State:*** DOT employees, their immediate family members, and/or a business with which a DOT employee is associated, may not enter into a contract with the State valued at \$100 or more unless the contract has been awarded through an opened public process.
9. ***Sanctioning Another's Ethics Violation:*** No DOT official or employee shall counsel, authorize, or otherwise sanction action that violates any provision of the Code of Ethics.
10. ***Certain Persons Have An Obligation to Report Ethics Violations:*** If the DOT Commissioner, Deputy Commissioner, or "person in charge of State agency procurement" and contracting has reasonable cause to believe that a person has violated the Code of Ethics or any law or regulation concerning ethics in State contracting, he/she *must* report such belief to the Office of State Ethics. All DOT employees are encouraged to disclose waste, fraud, abuse, and corruption about which they become aware to the appropriate authority (see also Policy Statement EX.O.-23 dated March 31, 2004), including, but not limited to, their immediate supervisor or a superior of their immediate supervisor, the DOT Office of Management Services, the Ethics Compliance Officer, the Auditors of Public Accounts, the Office of the Attorney General, or the Office of the Chief State's Attorney.
11. ***Political Activities:*** Certain political activities may also result in a conflict of interest for DOT employees. Political activities of State employees are governed by both the Federal Hatch Act, Conn. Gen. Stat. &5- 266a, as well as Regs. of Conn. State Agencies &5-266a-1. Employees are encouraged to review DAS General Letter regarding political activities of employees, found at: <http://www.das.state.ct.us/HR/om/GL214D.pdf>, and contact the Ethics Compliance Officer, the Office of State Ethics, and, if necessary, the federal Office of Special Counsel, Hatch Act Unit: www.osc.gov/hatchact.htm.

In addition to the above-stated policies of the Department, DOT employees are advised that the Code of Ethics for Public Officials bars certain conduct by State employees *after the leave State service*. ***Upon leaving State service:***

- **Confidential Information:** DOT employees must not disclose or use confidential information gained in State service for the financial benefit of any person.
- **Prohibited Representation:** DOT employees must *never* represent anyone (other than the State) concerning any “particular matter” in which they participated personally and substantially while in State service and in which the State has a substantial interest.

DOT employees also must not, for one year after leaving State service, represent anyone other than the State for compensation before the DOT concerning a matter in which the State has a substantial interest. In this context, the term “represent” has been very broadly defined. Therefore, any former DOT employee contemplating post-State employment work that might involve interaction with any bureau of DOT (or any Board or Commission administratively under the DOT) within their first year after leaving State employment should contact the DOT Ethics Compliance Officer and/or the Office of the State Ethics.

- **Employment With State Vendors:** DOT employees who participated substantially in, or supervised, the negotiation or award of a State contract valued at \$50,000 or more must not accept employment with a party to the contract (other than the State) for a period of one year after resigning from State service, if the resignation occurs within one year after the contract was signed.

Training for DOT Employees

A copy of this policy will be posted throughout the Department, and provided to each employee either in hard copy or by e-mail. As set forth above, State law requires that certain employees involved in contractor/consultant/vendor selection, evaluation and supervision must undergo annual ethics training coordinated or provided by the Ethics Compliance Officer. If you believe your duties meet these criteria, you should notify your Bureau Chief to facilitate compilation of a training schedule. In addition, the DOT Ethics Compliance Officer can arrange for periodic ethics training provided by the Office of State Ethics. Finally, the Department will make available, on its web site or otherwise, a copy of this policy to all vendors, contractors, and other business entities doing business with the Department.

Important Ethics Reference Materials

It is strongly recommended that every DOT employee read and review the following:

- Code of Ethics for Public Officials, Chapter 10, Part 1, Conn. General Statutes Sections 1 – 79 through 1 – 89a found at: www.ct.gov/ethics/site/default.asp
- Ethics Regulations Sections 1 – 81 – 14 through 1 – 81 – 38, found at: www.ct.gov/ethics/site/default.asp
- DAS General Letter regarding political activities of employees, found at: <http://www.das.state.ct.us/HR/om/GL214D.pdf>.
- The Office of State Ethics web site which includes summaries and the full text of formal ethics advisory opinions interpreting the Code of Ethics, as well as summaries of previous enforcement actions: www.ct.gov/ethics/site/default.asp. DOT employees

are strongly encouraged to contact the Department's Ethics Compliance Officer or his designee, or the Office of State Ethics with any questions or concerns they may have.

(This Policy Statement supersedes Policy Statement No. F&A-10 dated February 8, 2005)

Stephen E. Korta, II
Commissioner

(Managers and supervisors are requested to distribute a copy of this Policy Statement to all employees under their supervision.)

CONNECTICUT DEPARTMENT OF TRANSPORTATION

POLICY STATEMENT

POLICY NO. F&A-19

April 17, 2006

SUBJECT: Policy on Disadvantaged Business Enterprise Program

The Connecticut Department of Transportation (ConnDOT) is committed to the effective implementation of the Disadvantaged Business Enterprise (DBE) Program as defined in Title 49, Code of Federal Regulations (CFR) Part 26. This program will be executed in accordance with the regulations of the United States Department of Transportation (DOT) as a condition of receiving DOT funding.

It is the policy of ConnDOT to:

- a) Ensure nondiscrimination in the award and administration of DOT-assisted contracts in ConnDOT's highway, transit and airport financial assistance programs;
- b) Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- c) Ensure that ConnDOT's DBE Program is narrowly tailored in accordance with applicable law;
- d) Ensure that only firms which fully meet this part's eligibility standards are permitted to participate as DBEs;
- e) Help remove barriers to the participation of DBEs in DOT-assisted contracts; and
- f) Assist in the development of firms that can compete successfully in the marketplace outside the DBE Program.

ConnDOT will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract. ConnDOT shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. ConnDOT shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.

In administering the DBE Program, ConnDOT will not directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing the accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, national origin, or sex.

No contractor, subrecipient, or subcontractor shall discriminate on the basis of race, color, national origin, or sex in the performance on any DOT-assisted contract. Contractors shall carry out the applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements will result in a material breach of the contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of the agreement. The DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE Program whose conduct is subject to such action. The DOT may refer to the United States Department of Justice, for prosecution under 18 United States Code (USC) 1001 or other applicable provisions of law, any person who makes a false or fraudulent

statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable federal statutes.

The Manager of Contract Compliance has been designated as the DBE Liaison Officer. In that capacity, the Manger of Contract Compliance is responsible for implementing all aspects of the DBE Program.

This DBE Program Policy Statement is distributed to all ConnDOT managers and to the DBE and non-DBE community. The Policy Statement is also available on the ConnDOT web site.

(This Policy Statement supersedes Policy Statement No. F & A – 19 dated May 12, 2003.)

AGREEMENTS WITH GOALS
SPECIAL PROVISIONS
DISADVANTAGED BUSINESS ENTERPRISES
AS SUBCONTRACTORS AND MATERIAL SUPPLIERS OR MANUFACTURERS
FOR FEDERAL FUNDED PROJECTS

Revised – October 16, 2000

NOTE: Certain of the requirements and procedures stated in this special provision are applicable prior to the execution of the Contract document.

I. **ABBREVIATIONS AND DEFINITIONS AS USED IN THIS SPECIAL PROVISION**

- a. “CDOT” means the Connecticut Department of Transportation.
- b. “DOT” means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (“FHWA”), the Federal Transit Administration (“FTA”), and the Federal Aviation Administration (“FAA”).
- c. “Broker” means a party acting as an agent for others in negotiating contracts, agreements, purchases, sales, etc., in return for a fee or commission.
- d. “Contract,” “agreement” or “subcontract” means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For the purposes of this provision a lease for equipment or products is also considered to be a Contract.
- e. “Contractor,” means a consultant, second party or any other entity doing business with CDOT or, as the context may require, with another Contractor.
- f. “Disadvantaged Business Enterprise” (“DBE”) means a small business concern:
 - 1. That is a least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock of which is owned by one or more such individuals; and
 - 2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

- g. “DOT-assisted Contract” means any Contract between a recipient and a Contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees.
- h. “Good Faith Efforts” means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement. Refer to Appendix A of 49 Code of Federal Regulations (“CFR”) Part 26 – “Guidance Concerning Good Faith Efforts,” a copy of which is attached to this provision, for guidance as to what constitutes good faith efforts.
- i. “Small Business Concern” means, with respect to firms seeking to participate as DBEs in DOT-assisted Contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration (“SBA”) regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR Part 26, Section 26.65(b).
- j. “Socially and Economically Disadvantaged Individuals” means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is –
 - 1. Any individual who CDOT finds on a case-by-case basis to be a socially and economically disadvantaged individual.
 - 2. Any individuals in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - i. “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;
 - ii. “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - iii. “Native Americans,” which includes persons who are American Indians, Eskimos, Aluets, or Native Hawaiians;
 - iv. “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the

Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

- v. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- vi. Women;
- vii. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

II. GENERAL REQUIREMENTS

- A. The Contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted Contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as the DOT deems appropriate.
- B. The Contractor shall cooperate with CDOT and DOT in implementing the requirements concerning DBE utilization on this Contract in accordance with Title 49 of the Code of Federal Regulations, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs" ("49 CFR Part 26"), as revised. The Contractor shall also cooperate with CDOT and DOT in reviewing the Contractor's activities relating to this Special Provision. This Special Provision is in addition to all other equal opportunity employment requirements of this Contract.
- C. The Contractor shall designate a liaison officer who will administer the Contractor's DEB program. Upon execution of this Contract, the name of the liaison officer shall be furnished in writing to CDOT's Division of Contract Compliance.
- D. For the purpose of this Special Provision, DBEs to be used to satisfy the DBE goal must be certified by CDOT's Division of Contract Compliance for the type(s) of work they will perform.
- E. If the Contractor allows work designated for DBE participation required under the terms of this Contract and required under III-B to be performed by other than the named DBE

organization without concurrence from CDOT's unit administering the Contract, CDOT will not pay the Contractor for the value of the work performed by organizations other than the designated DBE.

- F. At the completion of all Contract work, the Contractor shall submit a final report to CDOT's unit administering the Contract indicating the work done by, and the dollars paid to DBEs. If the Contractor does not achieve the specified Contract goals for DBE participation, the Contractor shall also submit written documentation to the CDOT unit administering the Contract detailing its good faith efforts to satisfy the goal that were made during the performance of the Contract. Documentation is to include but not be limited to the following:
1. A detailed statement of the efforts made to select additional subcontracting opportunities to be performed by DBEs in order to increase the likelihood of achieving the state goal.
 2. A detailed statement, including documentation of the efforts made to contact and solicit bids/proposals with CDOT certified DBEs, including the names, addresses, dates and telephone numbers of each DBE contacted, and a description of the information provided to each DBE regarding the scope of services and anticipated time schedule of work items proposed to be subcontracted and nature of response from firms contacted.
 3. Provide a detailed statement for each DBE that submitted a subcontract proposal, which the Contractor considered not to be acceptable stating the reasons for this conclusion.
 4. Provide documents to support contacts made with CDOT requesting assistance in satisfying the Contract specified goal.
 5. Provide documentation of all other efforts undertaken by the Contractor to meet the defined goal.
- G. Failure of the Contractor at the completion of all Contract work to have at least the specified percentage of this Contract performed by DBEs as required in III-B will result in the reduction in Contract payments to the Contractor by an amount determined by multiplying the total Contract value by the specified percentage required in III-B and subtracting from that result, the dollar payments for the work actually performed by DBEs. However, in instances where the Contractor can adequately document of substantiate its

good faith efforts made to meet the specified percentage to the satisfaction of CDOT, no reduction in payments will be imposed.

- H. All records must be retained for a period of three (3) years following acceptance by CDOT of the Contract and shall be available at reasonable times and place for inspection by authorized representatives of CDOT and Federal agencies. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audits findings involving the records are resolved.
- I. Nothing contained herein, is intended to relieve any Contractor or subcontractor or material supplier or manufacturer from compliance with all applicable Federal and State legislation or provisions concerning equal employment opportunity, affirmative action, nondiscrimination and related subjects during the term of this Contract.

III. SPECIFIC REQUIREMENTS:

In order to increase the participation of DBEs, CDOT requires the following:

- A. The Contractor shall assure that certified DEBs will have an opportunity to compete for subcontract work on this Contract, particularly by arranging solicitations and time for the preparation of proposals for services to be provided so as to facilitate the participation of DBEs regardless if a Contract goal is specified or not.
- B. Contract goal for DBE participation equaling 0 percent of the total Contract value has been established for this Contract. Compliance with this provision may be fulfilled when a DBE or any combination of DBEs perform work under Contract in accordance with 49 CFR Part 26, Subpart C, Section 26.55, as revised. **Only work actually performed by and/or services provided by DBEs which are certified for such work and/or services can be counted toward the DBE goal. Supplies and equipment a DBE purchases or leases from the prime Contractor or its affiliate can not be counted toward the goal.**

If the Contractor does not document commitments, by subcontracting and/or procurement of material and/or services that at least equal the goal stipulated in III-B, or document a plan which indicates how the Contractor intends to meet the goal in the future phase(s) of the work, the Contractor must document the good faith efforts that outline the steps it took to meet the goal in accordance with VII.

- C. Prior to execution of the Contract the Contractor shall indicate, in writing on the forms provided by CDOT to the Director of Contract Administration or CDOT's unit

administering the Contract, the DBE(s) it will use to achieve the goal indicated in III-B. The submission shall include the name and address of each DBE that will participate in this Contract, a description of the work each will perform and the dollar amount of participation. This information shall be signed by the named DBE and the Contractor. The named DBE shall be from a list of certified DBEs available from CDOT. **In addition, the named DBE(s) shall be certified to perform the type of work they will be contracted to do.**

- D. The prime Contractor shall provide a fully executed copy of each agreement with each DBE named to achieve the goal indicated in III-B to CDOT's unit administering the Contract.
- E. The Contractor is required, should there be a change in a DBE they submitted in III-C, to submit documentation to CDOT's unit administering the Contract which will substantiate and justify the change, (i.e., documentation to provide a basis for the change for review and approval by CDOT's unit administering the Contract) prior to the implementation of the change. The Contractor must demonstrate that the originally named DBE is unable to perform in conformity to the scope of service or is unwilling to perform, or is in default of its Contract, or is overextended on other jobs. **The Contractor's ability to negotiate a more advantageous agreement with another subcontractor is not a valid basis for change.** Documentation shall include a letter of release from the originally named DBE indicating the reason(s) for the release.
- F. Contractors subcontracting with DBEs to perform work or services as required by this Special Provision shall not terminate such firms without advising CDOT's unit administering the Contract in writing, and providing adequate documentation to substantiate the reasons for termination if the DBE has not started or completed the work or the services for which it has been contracted to perform.
- G. When a DBE is unable to unwilling to perform or is terminated for just cause the Contractor shall make good faith efforts to find other DBE opportunities to increase DBE participation to the extent necessary to at least satisfy the goal required by III-B.
- H. In instances where an alternate DBE is proposed, a revised submission to CDOT's unit administering the Contract together with the documentation required in III-C, III-D, and III-E, must be made for its review and approval.
- I. Each quarter after execution of the Contract, the Contractor shall submit a report to CDOT's unit administering the Contract indicating the work done by, and the dollars paid to the DBE for the current quarter and to date.

IV. MATERIAL SUPPLIERS OR MANUFACTURERS

- A. If the Contractor elects to utilize a DBE supplier or manufacturer to satisfy a portion or all of the specified DBE goal, the Contractor must provide the CDOT with:
1. An executed "Connecticut Department of Transportation DBE Supplier/Manufacturer Affidavit" (sample attached), and
 2. Substantiation of payments made to the supplier or manufacturer for materials used on the project.
- B. Credit for DBE suppliers is limited to 60% of the value of the material to be supplied, provided such material is obtained from a regular DBE dealer. A regular dealer is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the Contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products, need not keep such products in stock if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as material suppliers or manufacturers.
- C. Credit for DBE manufacturers is 100% of the value of the manufactured product. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Department of Transportation or Contractor.

V. NON-MANUFACTURING OR NON-SUPPLIER DBE CREDIT

- A. Contractors may count towards their DBE goals the following expenditures with DBEs that are not manufacturers or suppliers:
1. Reasonable fees or commissions charged for providing a bona fide service such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment materials or supplies necessary for the performance of the Contract provided that the fee or commission is determined by the CDOT to be reasonable and consistent with fees customarily allowed for similar services.

2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when a hauler, trucker, or delivery service is a DBE but is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fees are determined by the CDOT to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. The fees or commissions charged for providing bonds or insurance specifically required for the performance of the Contract, provided that the fees or commissions are determined by the CDOT to be reasonable and not excessive as compared with fees customarily allowed for similar services.

VI. BROKERING

- A. Brokering of work by DBEs who have been approved to perform subcontract work with their own workforce and equipment is not allowed, and is a Contract violation.
- B. DBEs involved in the brokering of subcontract work that they were approved to perform may be decertified.
- C. Firms involved in the brokering of work, whether they are DBEs and/or majority firms who engage in willful falsification, distortion or misrepresentation with respect to any facts related to the project shall be referred to the U.S. Department of Transportation's Office of the Inspector General for prosecution under Title 18, U.S. Code, Section 10.20.

VII. REVIEW OF PRE-AWARD GOOD FAITH EFFORTS

- A. If the Contractor does not document commitments by subcontracting and/or procurement of material and/or services that at least equal the goal stipulated in III-B before execution of the Contract, or document a plan which indicates how the Contractor intends to meet the goal in future phase(s) of the work, the Contractor must document the good faith efforts that outline the specific steps it took to meet the goal. Execution of the Contract will proceed if the Contractor's good faith efforts are deemed satisfactory and approved by CDOT. To obtain such an exception, the Contractor must submit an application to CDOT's Director of Contract Administration or CDOT's unit administering the Contract, which documents the specific good faith efforts that were made to meet the DBE goal. **Application forms for Review of Pre-Award Good Faith Efforts are available from CDOT's Division of Contract Administration.**

The application must include the following documentation:

1. a statement setting forth in detail which parts, if any, of the Contract were reserved by the Contractor and not available for subcontracting;
 2. a statement setting forth all parts of the Contract that are likely to be sublet;
 3. a statement setting forth in detail the efforts made to select subcontracting work in order to likely achieve the state goal;
 4. copies of all letters sent to DBEs;
 5. a statement listing the dates and DBEs that were contacted by telephone and the result of each contact;
 6. a statement listing the dates and DBEs that were contacted by means other than telephone and the result of each contact;
 7. copies of letters received from DBEs in which they declined to bid or submit proposals;
 8. a statement setting forth the facts with respect to each DBE bid/proposal received and the reason(s) any such bid/proposal was declined;
 9. a statement setting forth the dates that calls were made to CDOT's Division of Contract Compliance seeking DBE referrals and the result of each such call; and
 10. any information of a similar nature relevant to the application.
- B. All applications shall be submitted to the Director of Contract Administration or CDOT's unit administering the Contract. Upon receipt of the submission of an application for review of pre-award good faith efforts, CDOT's Director of Contract Administration or CDOT's unit administering the Contract shall submit the documentation to the Division of Contract Compliance who will review the documents and determine if the package is complete and accurate and adequately documents the Contractor's good faith efforts. Within fourteen (14) days of receipt of the documentation the Division of Contract Compliance shall notify the Contractor by certified mail of the approval or denial of its good faith efforts.
- C. If the Contractor's application is denied, the Contractor shall have seven (7) days upon receipt of written notification of denial to request administrative reconsideration. The Contractor's request for administrative reconsideration should be sent in writing to:

Director of Contract Administration or CDOT's unit administering the Contract, P.O. Box 317546, Newington, CT 06131-7546. The Director of Contract Administration or CDOT's unit administering the Contract will forward the Contractor's reconsideration request to the DBE Screening Committee. The DBE Screening Committee will schedule a meeting within fourteen (14) days from receipt of the Contractor's request for administrative reconsideration and advise the Contractor of the date, time and location of the meeting. At this meeting the Contractor will be provided with the opportunity to present written documentation and/or argument concerning the issue of whether it made adequate good faith efforts to meet the goal. Within seven (7) days following the reconsideration meeting, the chairperson of the DBE Screening Committee will send the contractor via certified mail a written decision on its reconsideration request, explaining the basis of finding either for or against the request. The DBE Screening Committee's decision is final. **If the reconsideration is denied, the Contractor shall indicate in writing to the Director of Contract Administration or CDOT's unit administering the Contract within fourteen (14) days of receipt of written notification of denial, the DBEs it will use to achieve the goal indicated in III-B.**

- D. Approval of pre-execution good faith efforts does not relieve the Contractor from its obligation to make additional good faith efforts to achieve the DBE goal should contracting opportunities arise during actual performance of the Contract work.

APPENDIX A TO 49 CFR PART 26 – GUIDANCE CONCERNING GOOD FAITH EFFORTS

- I. When, as a recipient, you establish a Contract goal on a DOT-assisted Contract, a Bidder/Contractor must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The Bidder/ Contractor can meet this requirement in either of two ways. First, the Bidder/Contractor can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the Bidder/ Contractor can document adequate good faith efforts. This means that the Bidder/Contractor must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.
- II. In any situation in which you have established a Contract goal, Part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a Bidder/Contractor that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the Bidder/ Contractor has made. The efforts employed by the Bidder/ Contractor should be those that one could reasonable expect a Bidder/Contractor to take if the Bidder/ Contractor were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE Contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE Contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.
- III. The Department also strongly cautions you against requiring that a Bidder/Contractor meet a Contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a Contract, even though the Bidder/Contractor makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.
- IV. The following is a list of types of actions which you should consider as part of the Bidder/Contractor's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive.. Other factors or types of efforts may be relevant in appropriate cases.
 - A. Soliciting through all reasonable and available means (e.g. attendance at pre-proposal meetings, advertising and/or written notices) the interest of all certified

DBEs who have the capability to perform the work of the Contract. The Bidder/Contractor must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The Bidder/Contractor must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out Contract work items into economically feasible units to facilitate DBE participation, even when the prime Contractor might otherwise prefer to perform these work items with its own forces.

- C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the Contract in a timely manner to assist them in responding to a solicitation.
- D. (1) Negotiating in good faith with interested DBEs. It is the Bidder/contractor's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
- (2) A Bidder/Contractor using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as Contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a Bidder/Contractor's failure to meet the Contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime Contractor to perform the work of a Contract with its own organization does not relieve the Bidder/Contractor of the responsibility to make good faith efforts. Prime Contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Contractor's standing within its industry, membership in specific groups, organizations, or associations and

political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids/proposals in the Contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women Contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

V. In determining whether a Bidder/Contractor has made good faith efforts, you may take into account the performance of other Bidder/Contractors in meeting the Contract. For example, when the apparent successful Bidder/Contractor fails to meet the Contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful Bidder/Contractor could have met the goal. If the apparent successful Bidder/Contractor fails to meet the goal, but meets or exceeds the average DBE participation obtained by other Bidder/Contractors, you may view this, in conjunction with other factors, as evidence of the apparent successful Bidder/Contractor having made good faith efforts.

CIVIL RIGHTS

The Second Party shall comply with the Regulations of the United States Department of Transportation (Title 49, Code of Federal Regulations, Part 21) issued in implementation of Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4, and Appendix CR attached hereto, both of which are hereby made a part of this Agreement.

- (a) For the purposes of this section, "Minority Business Enterprise" means any small contractor or supplier of materials fifty-one percent or more of capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of Conn. Gen. Stat. §32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

For purposes of this section, "Commission" means the Commission on Human Rights and Opportunities.

- (b)(1) The Second Party agrees and warrants that in the performance of the contract such Second Party will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such Second Party that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut. The Second Party further agrees to take affirmative action to insure that applicants with job related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such Second Party that such disability prevents performance of work involved; (2) the Second Party agrees, in all solicitations or advertisements for employees placed by or on behalf of the Second Party, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Second Party agrees to provide each labor union or representative of workers with which such Second Party has a collective bargaining agreement or other contract or understanding and each vendor with which such Second Party has a contract or understanding, a notice to be provided by the Commission advising the labor union or workers' representative of the Second Party's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Second Party agrees to comply with each provision of this section and Conn. Gen. Stat. §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Conn. Gen. Stat. §§46a-56, 46a-68e and 46a-68f; (5) the Second Party agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Second Party as they relate to the provisions of this section and Section 46a-56. If the contract is a public works contract, the Second Party agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

- (c) Determination of the Second Party's good faith efforts shall include but shall not be limited to the following factors: The Second Party's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Second Party shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its "good faith efforts".
- (e) The Second Party shall include the provisions of subsection (b) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Second Party shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Conn. Gen. Stat. §46a-56, provided if such Second Party becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Second Party may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (f) The Second Party agrees to comply with the regulations referred to in this section as they exist on the date of this contract and as they may be adopted or amended from time to time during the term of this contract and any amendments thereto.

1. Nondiscrimination (Sexual Orientation). The Second Party shall comply with the following:

- (a) Pursuant to Section 4a-60a of the Connecticut General Statutes, (1) The Second Party agrees and warrants that in the performance of the contract such Second Party will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Second Party agrees to provide each labor union or representative of workers with which such Second Party has a collective bargaining agreement or other contract or understanding and each vendor with which such Second Party has a contract or understanding, a notice to be provided by the commission on human rights and opportunities advising the labor union or workers' representative of the Second Party's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Second Party agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56 of the general statutes; (4) the Second Party agrees to provide the commission on human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Second Party which relate to the provisions of this section and Conn. Gen. Stat. sec. 46a-56.
- (b) The Second Party shall include the provisions of subsection (a) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such

provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of commission. The Second Party shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanction for noncompliance in accordance with section 46a-56 of the general statutes; provided, if such Second Party becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the commission, the Second Party may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

EXECUTIVE ORDERS

This Agreement is subject to the provisions of Executive Order No 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms, Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of this agreement as if they had been fully set forth in it. For complete text of said documents, please go to: http://www.das.state.ct.us/Purchase/Info/Executive_Orders.pdf

ATTACHMENT D

REQUIRED PROPOSAL FORMS

**CONNECTICUT REQUIRED CONTRACT/AGREEMENT
PROVISIONS DATED MARCH 6, 1998
“SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES”**

1. General

A. Equal employment Opportunity Requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246, Executive Order 11375, the Railroad Revitalization and Regulatory Reform Act of 1976 and other U.S. Department of Transportation nondiscrimination legislation are set forth in this Required Contract/Agreement Provision. The requirements set forth in these special provisions shall constitute the specific affirmative action requirements for project activities under this contract (or agreement) and supplement the equal employment opportunity requirements set forth in other related contract provisions.

B. “Company” refers to any entity doing business with the Connecticut Department of Transportation and includes but is not limited to the following:

Contractors	Vendors (where applicable)
Subcontractors	Suppliers of Materials (where applicable)
Consultants	Municipalities (where applicable)
Subconsultants	Utilities (where applicable)

C. The Company will work with the Connecticut Department of Transportation and the federal government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract or agreement.

D. The Company and all their subcontractors or subconsultants holding subcontracts or subagreements of \$10,000 or more on federally assisted projects and \$5,000 or more on state funded projects, will comply with the following minimum specific requirement activities of equal employment opportunity. The Company will physically include these requirements in every subcontract or subagreement meeting the monetary criteria above with such modification or language as is necessary to make them binding on the subcontractor or subconsultant.

E. These Required Contract Provisions apply to all state funded and/or federally assisted projects, activities and programs in all facets of the Connecticut Department of Transportation operations resulting in contracts or agreements.

2. Equal Employment Opportunity Policy

The Company will develop, accept and adopt as its operating policy and Affirmative Action Plan utilizing as a guide the Connecticut Department of Transportation Affirmative Action Plan Guideline.

3. Equal Employment Opportunity Officer

The Company will designate and make known to the State Department of Transportation contracting officers an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

4. Dissemination of Policy

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

- (1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less than once every six (6) months thereafter, at which time the Company's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable Company Official.
- (2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable Company official covering all major aspects of the Company's equal employment opportunity obligations within thirty (30) days following their reporting for duty with the Company.
- (3) All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate Company official in the Company's procedures for locating and hiring protected class group employees.

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

- (1) Notices and posters setting forth the Company's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
- (2) The Company's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

5. Recruitment

- A. When advertising for employees, the Company will include in all advertisements for employees the notation: "An Equal Opportunity Employer". All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

- B. The Company will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the Company will, through its EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the Company for employment consideration.

In the event the Company has a valid bargaining agreement providing for exclusive hiring of all referrals, the Company is expected to observe the provisions of that agreement to the extent that the system permits the Company's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the Company to do the same, such implementation violates Executive Order 11246, as amended.)

- C. The Company will encourage its present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in the areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

6. Personnel Actions

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

- A. The Company will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- B. The Company will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practice.
- C. The Company will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the Company will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective actions shall include all affected persons.
- D. The Company will promptly investigate all complaints of alleged discrimination made to the Company in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the Company will inform every complainant of all of his avenues of appeal.
- E. The general contract provision entitled A(76) Affirmative Action Requirements is made part of this document by reference. In conjunction with this contract provision, only the job categories will change in order to be comparable with the job categories utilized by the Company proposing to do business with the Connecticut Department of Transportation. The goals and timetables will remain the same throughout the contract provision.

7. Training and Promotion

- A. The Company will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- B. Consistent with the Company's work force requirements and as permissible under Federal and State regulations, the Company shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contact performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event the Training Special Provision is provided under this contract, this subparagraph will be superseded.

- C. The Company will advise employees and applicants for employment of available training programs and entrance requirements for each.
- D. The Company will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. Unions

If the Company relies in whole or in part upon unions as a source of employees, it will use its best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the Company either directly or through an association acting as agent will include the procedures set forth below:

- A. The Company will use its best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- B. The Company will use its best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin, etc.
- C. The Company is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the Company, the Company shall so certify to the Connecticut Department of Transportation and shall set forth what efforts have been made to obtain such information.
- D. In the event the union is unable to provide the Company with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the Company will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex or national origin, etc. making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that there shall be no excuse that the union with which the Company has a collective bargaining agreement providing for exclusive referral failed to refer minority employees). In the event the union referral practice prevents the Company from meeting the obligations pursuant to Executive Order 11246, as amended, and these provisions, such Company shall immediately notify the Connecticut Department of Transportation.

9. Subcontracting

- A. The Company will use its best efforts to solicit Proposals from and to utilize minority group subcontractors, or subcontractors with meaningful minority group and female representation among

their employees. Companies shall obtain a list of applicable Disadvantaged Business Enterprise firms from the Division of Contract Compliance.

- B. The Company will use its best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.
- C. The General Contract Provisions entitled “Minority Business Enterprises as Subcontractors” is made part of this document by reference and its requirements are applicable to all entities proposing to do business with the Connecticut Department of Transportation.

10. Records and Reports

For the duration of the project, the company will maintain records as are necessary to determine compliance with the Company’s equal employment opportunity obligations and Affirmative Action requirements. Additionally, the company will submit all requested reports in the manner required by the contracting agency.

- A. The number of minority and non-minority group members and women employed in each work classification on the project.
- B. The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to Companies which rely on whole or in part on unions as a source of their work force).
- C. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees, and

D. The progress and efforts being made in securing the services of minority and female owned businesses.

- (1) All such records must be retained for a period of three (3) years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State Department of Transportation and the U.S. Department of Transportation including consultant firms.
- (2) If on-the-job training is being required by the "Training Special Provision", the Company will be required to furnish a Monthly Training Report and Supplement Report (1409) for each trainee.

11. Affirmative Action Plan

- A. Contractors, subcontractors, Vendors, suppliers, and all other Companies with contracts, agreements or purchase orders completely state funded will submit an Affirmative Action Plan if the contract value is \$5,000 or over.
- B. Contractors, subcontractors, Vendors, suppliers, and all other Companies with federally assisted contracts, agreements, or purchase orders valued at \$10,000 or more will submit an Affirmative Action Plan.
- C. Companies with contracts, agreements, or purchase orders with total dollar value under that which is stipulated in A and B above shall be exempt from the required submission of an Affirmative Action Plan unless otherwise directed by the Division of Contract Compliance.

**CONNECTICUT DEPARTMENT OF TRANSPORTATION
AFFIRMATIVE ACTION REQUIREMENT**

For Subcontractors of The Department of Transportation

Company Name
(if applicable include d/b/a) _____

Address _____

City/State/Zip _____

Area Code/Phone Number _____

Area Code/Fax Number _____

Contact Person _____

AFFIRMATIVE ACTION POLICY STATEMENT

It is the policy of this firm to assure that applicants are employed, and that employees are treated during employment, without regard to an individual's race, color, religion, age, sex, marital status, national origin or ancestry, present or past history of mental disability, mental retardation, learning disability or physical disability, including but not limited to, blindness except in the case of a bona fide occupational qualification or need. Such action shall include: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training. This policy and practice applies to all persons.

This firm will implement, monitor, enforce and achieve full compliance with this
Affirmative Action Policy Statement in conjunction with the applicable federal and state laws, and
applicable regulations and executive orders.

1. Civil Rights Act of 1964, as amended
2. Presidential Executive Order 11246, as amended
3. Title 23 U.S.C. 140
4. Title 49 C.F.R. Part 26
5. Governor's Executive Orders #3 and #17
6. Connecticut Fair Employment Practices Act
7. Americans with Disabilities Act of 1990
8. Public Act No. 91-58
9. Specific Equal Employment Opportunity Responsibilities
10. Required Contract Provisions Federal Aid Construction Contracts

11. A (76) Affirmative Action Requirements
12. Training Special Provision
13. Minority Business Enterprises as Subcontractors
14. Standard Federal Equal Employment Opportunity Construction Contract Specification
15. Nondiscrimination Act

In implementing this policy and ensuring that equal opportunity is being provided to protected class members, each time a hiring opportunity occurs this firm will contact and request referrals from minority and female organizations, referral sources, and media sources. All advertising will emphasize that the firm is "An Affirmative Action/Equal Opportunity Employer".

In order to substantiate this firm's efforts and affirmative actions to provide equal opportunity, the firm will maintain and submit, as requested, documentation such as referral request correspondence, copies of advertisements utilized and follow-up documentation to substantiate that efforts were made in good faith. This firm will maintain internal EEO/affirmative action audit procedures and reporting, as well as record keeping systems.

It is understood by me, including the Equal Employment Opportunity Officer and supervisory and managerial personnel that failure to effectively implement, monitor and enforce this firm's affirmative action program and failure to adequately document the affirmative actions taken and efforts made to recruit and hire minority and female applicants, in accordance with our affirmative action program in each instance of hire, will result in this firm being required to recommit itself to a modified and more stringent affirmative action policy program, prior to receiving approval. It is recognized that an approved affirmative action program is a prerequisite for performing services for the contracting agency.

Managers and supervisors are being advised of their responsibilities to ensure the success of the Affirmative Action Program. The ultimate responsibility for the Affirmative Action Program rests with the Chief Executive Officer. However, the day-to-day duties are hereby designated to _____ (Name), this individual has been designated as the Equal Employment Opportunity Officer of this firm and will report directly to the Chief Executive Officer in these matters.

This Affirmative Action Policy Statement has my whole-hearted support. In addition, each manager and supervisor, as well as all employees, who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the equal employment opportunity in each grade and classification of employment.

Signature of Chief Executive Officer

Date

