

The following is a list of documents which should be included in your Internet Package.

Form Name	Attachment No	# Pages
Request for Proposal- Cover Letter		1
Request for Proposal		22
Cost Proposal Worksheet	2	1
Contract Certification Clause (CCC-307)	3	4
Proposal/Proposer Certification	4	2
Darfur Contracting Act	5	1
Attachment Checklist	6	1
Evaluation Criteria for Technical Proposal	7	1
Evaluation Criteria for Oral Presentation	7	1
Evaluation Criteria for Cost Proposal – For Use in High Score Only	7	1
California Disabled Veteran Business Enterprise (DVBE) Program Requirements Attachment	8	11
Bidder Declaration, GSPD-05-105	9	2
Accounting and Audit Guidelines	10	5
Proposed Form of Agreement, STD 213	11	20

If any portion of the bid package cannot be downloaded, it is the proposer's responsibility to request hard copies from the Bid Unit at: (916) 227-6075 or by faxing a request to (916) 227-1950.

DEPARTMENT OF TRANSPORTATION

DIVISION OF PROCUREMENT AND CONTRACTS MS-65
1727 30TH STREET
SACRAMENTO, CA 95816-7006
PHONE (916) 227-6000
FAX (916) 227-6155
TTY (800) 735-0193 or 711
INTERNET <http://caltrans-opac.ca.gov>



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June 16, 2009

**REQUEST FOR PROPOSAL
Notice to Prospective Proposers
RFP Number 75A0300**

You are invited to review and respond to this Request for Proposal (RFP) Number 75A0300, entitled **Advertising and Promotional Campaign for San Joaquin and Pacific Surfliner Routes and Statewide Rail Safety Program**. In submitting your proposal, you must comply with the instructions found herein.

As required by Governor Executive Order S-02-06, Caltrans is committed to meeting the State's 25% Small Business participation goal. Certified Small Businesses, Microbusinesses and contractors willing to commit to subcontracting a minimum of 25% of their net bid price to certified Small Businesses or Microbusinesses are encouraged to submit bids.

A Disabled Veteran Business Enterprise (DVBE) Participation Goal Program for State agreements is established in Public Contract Code (PCC), §10115 et seq., Military and Veterans Code (MVC), §999 et seq., and California Code of Regulations (CCR), Title 2, §1896.60 et seq. This solicitation offers an incentive to proposers that achieve a minimum participation of one (1) percent or greater.

Note that all Contracts (Agreements) entered into with the State of California will include by reference General Terms and Conditions that may be viewed and downloaded at Internet site <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>. If you do not have Internet access, a hard copy can be provided by contacting the Bid Unit: Phone (916) 227-6075, Fax Number (916) 227-1950.

The designated contact person for this RFP is:

Victoria Anderson
Department of Transportation
(916) 227-6028
(916) 227-6155

Please note that no *verbal* information given will be binding upon the State unless such information is issued in writing as an official addendum.

*Technical questions regarding this solicitation will be addressed, in writing, in accordance with the Questions and Answers portion of this RFP. See Section C) 4 Questions and Answers for more details.

Victoria Anderson
Acquisition Analyst

Table of Contents

SECTION	PAGE
A) Purpose and Description of Service	2
B) Minimum Qualifications for Proposers	7
C) Proposal Requirements and Information	8
1. Time Schedule	8
2. Questions and Answers	8
3. Technical Proposal Requirements	9
4. Darfur Contracting Act	12
5. Cost Proposal Requirements	13
6. Submission of Proposal	14
7. Evaluation Process	16
8. Award and Protest	19
9. Disposition of Proposals	20
10. Standard Conditions of Service	20
D) Special Programs	20
1. Disabled Veteran Business Enterprise (DVBE) Participation Program	20
2. Small Business Enterprises (SBE) or Microbusiness	21
Attachments	
1. Technical Proposal as stated in the RFP	
2. Cost Proposal Worksheet	
3. Contractor Certification Clauses (CCC 307)	
4. Proposal/Proposer Certification Sheet	
5. Darfur Contracting Act	
6. Required Attachment Check List	
7. Criteria for Evaluation of Consultant Technical Proposals	
8. Disabled Veteran Business Enterprise (DVBE) Participation Program	
9. Bidder Declaration, GSPD-05-105	
10. Accounting and audits Guidelines	
11. Proposed Form of Agreement, STD 213:	
Exhibit A, Scope of Work	
Exhibit B, Budget Detail and Payment Provisions	
Exhibit C, General Terms and Conditions (GTC)	
Exhibit D, Special Terms and Conditions	
Exhibit E, Additional Provisions	

A) Purpose and Description of Services

1. Introduction

This Request for Proposal (RFP) solicits contractors' proposals for developing and implementing a comprehensive advertising and public outreach program to promote ridership of State-supported intercity passenger rail services on the San Joaquin and Pacific Surfliner routes. As well, the successful contractor shall be responsible for implementation of a statewide rail safety program designed to increase public awareness of rail safety issues.

2. Background

The California Department of Transportation (Department) contracts with Amtrak to provide intercity passenger services on two corridors. The corridor services are supported by an extensive network of connecting motorcoaches marketed in conjunction with the rail services. The two intercity services as well as the Capitol Corridor are described below.

3. Amtrak San Joaquin

The Amtrak San Joaquin provide rail service from Oakland, in the San Francisco Bay area, to Bakersfield by way of the San Joaquin Valley, and from Sacramento to Bakersfield via Stockton. There are currently four round trips a day between Bakersfield and Oakland, and two additional roundtrip trains connect Sacramento and Bakersfield via Stockton. An extensive connecting motorcoach system links the San Joaquin to Los Angeles, San Francisco, Sacramento, and Redding, as well as coastal cities and the Pacific Surfliner and Capitols.

The performance of the San Joaquin has improved significantly since the State began support of the route in October 1979. Annual ridership figures for the San Joaquin for the last three fiscal years are:

<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>
789,641	894,346	793,014

The State's principal objectives on this route are to:

- Increase ridership and revenues.
- Increase revenue/cost (farebox) ratio.
- Increase frequency of service.
- Increase speeds and reduce train-running times.
- Improve the reliability (on-time performance) of trains.
- Improve intermodal connectivity through improved Amtrak Thruway service and improved coordination with urban transit.

- Improve passenger safety, comfort, convenience and information.

Presently the State is funding track and signal improvements on the San Joaquin route designed to increase speeds, reduce running times and improve reliability and on-time performance.

4. Amtrak Pacific Surfliner

The Amtrak has operated passenger rail service – then called the San Diegans – between San Diego and Los Angeles since 1971. In 2000, the service was relaunched as the Pacific Surfliner with new equipment and service amenities. There are currently 11 daily round trips between San Diego and Los Angeles, 12 on weekends. Five Pacific Surfliner round trip trains extend north to Goleta just outside of Santa Barbara, and two roundtrips continue to San Luis Obispo. In addition, there are connecting motorcoaches linking the Pacific Surfliner to surrounding cities and to other Amtrak trains.

Pacific Surfliner trains have historically enjoyed strong ridership and revenue. The service has experienced competition from commuter rail services on the corridor. Metrolink initiated commuter service from Los Angeles to Oceanside on the corridor in 1994. The Coaster service operating between San Diego and Oceanside began service in 1995. The Department and Amtrak have recently entered into a partnership program with Metrolink called Rail2Rail. Under this program Amtrak and Metrolink will honor one another's tickets on specified route segments. The program has been a huge success and has increased overall ridership for both services. In 2004, Coaster joined the Rail2Rail program.

Annual ridership for the Pacific Surfliner in each of the past three fiscal years was:

<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>
2,685,194	2,835,132	2,253,120

The State's principal objectives on this route are to:

- Increase ridership and revenues.
- Increase revenue/cost (farebox) ratio.
- Increase frequency of service.
- Increase speeds and reduce train-running times.
- Improve the reliability (on-time performance) of trains.
- Improve passenger safety, comfort, convenience and information.
- Improve intermodal connectivity through improved Amtrak Thruway service, improved coordination with urban transit, and cross-ticketing/coordinated schedules with Metrolink and Coaster.

5. Amtrak Capitols

Information about the Amtrak Capitols is provided as background to potential bidders. The route is part of the statewide Amtrak California network. The

contractor shall not be responsible under the terms of the resultant contract for advertising and public relations activities on the Capitols route segment.

Amtrak Capitol Corridor trains operate between Auburn, Roseville, Sacramento, Oakland and San Jose. This service began December 12, 1991, with three daily roundtrips between Sacramento and San Jose, and one roundtrip a day extending to Roseville. The service was increased to four roundtrips per day in April 1996. Connecting motorcoaches link the Capitols to San Francisco, Redding, Lake Tahoe, Monterey, Santa Barbara and selected cities in between. In January 1998, service to Roseville was extended to Colfax. In October 1998, a fifth roundtrip train was added to the Sacramento/Oakland schedule. A sixth roundtrip operating between Sacramento and Oakland was added in February 1999, and a seventh roundtrip was added a year later. Today 12 roundtrips operate on the corridor between Sacramento and Oakland during the week, with nine roundtrips on the weekends.

Day-to-day operations of the Capitols are the responsibility of the Capitol Corridor Joint Powers Agency (CCJPA). The CCJPA administers its own budget for advertising and public relations. The potential contractors shall not include funding in their cost proposal for advertising and public relations activities on the Capitol Corridor, but plan on providing marketing and other day-to-day operations information to the CCJPA when requested to do so by the Department's Contract Manager or as otherwise agreed to between CCJPA and the Department's Contract Manager. CCJPA, at the request of the Department's Contract Manager, may be attending meetings with the contractor awarded this contract as well.

6. Coordination

The Department's rail marketing and promotional efforts are coordinated with Amtrak. In addition, Amtrak operates five long distance trains that originate/terminate in California: the Coast Starlight, the California Zephyr, the Southwest Chief, and the Sunset Limited. Amtrak national campaigns are closely coordinated with State efforts to avoid potential confusion for the traveler and advertising redundancy, and to maximize resources.

As well, the Department has a separate contract for marketing research and evaluation services. The purpose of the research contract is to evaluate the effectiveness of State-supported Amtrak marketing efforts. The selected contractor for this contract shall cooperate with and provide requested information to the Research contractor and review and respond to questions as requested. All correspondence shall have copies submitted to the Department's contract manager.

The selected contractor shall also cooperate with the private sector and advertising/marketing efforts of other state agencies, as appropriate, to maximize marketing dollars and reach the greatest number of potential consumers.

7. Potential Legislative Impacts

Chapter 263 of 1996 (Senate Bill 457/Kelly) allows for transfer of operating authority of State-supported intercity passenger rail services to regional joint powers boards, if specific conditions are met. At this time, an Interagency Transfer Agreement between the CCJPA and the Department is in place. As noted above, the CCJPA administers its own advertising and public relations programs, often separate from the efforts undertaken by the Department for similar services.

There has been little effort on the part of the designated entities representing the San Joaquin and Pacific Surfliner regions to assume responsibility for the remaining two services.

Should operating authority of State-supported passenger rail service be transferred to any regional board or authority in accordance with Chapter 263, the proposed contract shall be reduced by an amount equal to that corridor's public relations allocation, or a comparable amount negotiated with the regional board or authority.

A. Description Of Work

1. Advertising

The contractor selected will perform the following activities to promote ridership on State-supported Amtrak services.

Work with Department staff and Amtrak as a team to develop strategies to promote and enhance ridership on Amtrak's Pacific Surfliner and San Joaquin trains through an overall marketing plan for these services.

Plan, develop, create, produce and implement advertising programs designed to increase awareness, ridership and revenue of rail and connecting Amtrak Thruway motorcoach services.

Work with Joint Powers Agencies established pursuant to Senate Bill 457 (1996), Chapter 263, Statutes of 1996, as required.

Provide assistance on long range marketing plans and specialized programs as requested. The agency will interact with Department staff and other marketing contractors to provide integration of advertising plans.

Assist the Department in overall marketing analysis, strategy development and positioning of the State-supported rail passenger service.

Develop media plans and purchase media which may include (but is not limited to) television, radio, print, outdoor, internet and direct mail.

Develop and coordinate promotions in conjunction with media buys.

Create, produce and place advertising.

Plan and execute joint advertising and promotional campaigns with outside agencies.

Analyze proposed expenditures of noncontract advertising resources.

B. Public Relations Activities

Contractor will perform the following activities to promote ridership on State-supported Amtrak services.

Work with Department staff and Amtrak as a team, developing strategies to promote and enhance ridership on Amtrak's Pacific Surfliner and San Joaquins through an overall marketing plan for these services.

Develop and conduct promotional programs designed to increase awareness and ridership of rail and connecting motorcoach services. The Contractor shall organize and direct special events such as press conferences, station dedications, and service inauguration celebrations.

Write and distribute news releases to the media. Maintain publicity/media lists and other specialized lists, and handle large mailings.

Write, produce and distribute informational literature to inform the public of rail services in California, including brochures.

Write, produce and distribute 40,000 copies of each edition of the Rail Program's quarterly newsletter, "Making Tracks". "Making Tracks" is distributed at Amtrak stations throughout California and mailed to a list of interested parties.

Survey California fairs, expositions and travel fair/trade shows and create a roster of potential outreach events in which the Rail Division could participate. Make recommendations to Rail Division staff about the best allocation of resources among the events.

Design and develop displays for use at fairs and special events, to keep the public informed of new rail service and the advantages of rail travel. Write, design and produce packets of leave-behind materials.

C. Rail Safety Activities

Contractor will be responsible for implementation of a statewide Rail Safety Awareness Program designed to increase awareness of rail safety issues among students and the general public. Contractor will perform the following activities to promote rail safety in California.

Coordinate a major Rail Safety Awareness event each year in conjunction with Operation Lifesaver Day and Safety Awareness Week. These events are usually held in May.

Coordinate rail safety awareness outreach programs at schools along State-supported rail corridors.

Duplicate and distribute safety videos, as well as produce and/or distribute collateral rail safety materials deemed necessary for the program.

Design and develop rail safety display materials for use at schools, fairs and special events.

Perform ongoing press/media relations and accident response, as needed. Accident response will be conducted in close coordination with Amtrak's Emergency Response Team. **Amtrak will take the lead in all accident response situations.**

Submit rail safety material to major media which may include video (VNR's and PSA's), safety stories, photos, and interviews.

Develop cooperative rail safety advertising and sponsorships.

D. Proposed New Services/Events

In addition to the activities listed above for the two intercity services, the contractor will work with the Department and Amtrak to develop advertising and/or public relations campaigns to introduce and promote the following new services anticipated to take place during the contract period.

Pacific Surfliner

- Twelfth roundtrip train between San Diego and Los Angeles in Fiscal Year 2009/2010

San Joaquin

- New station facilities at Stockton and Madera.

B) Minimum Qualifications for Proposers

1. The advertising agency or its parent company must have been in business for a minimum of five (5) years.

2. If the proposal includes the use of a Media Buying House, the above five (5) year criteria also applies to the media buying firm.
3. The Department desires that the Proposer have completed a minimum of three (3) statewide, but not limited to State agencies, advertising campaigns with an average annual gross media budget of not less than one and a half (\$1.5) million dollars.
4. Consultant must have an office location in the State of California.

C) Proposal Requirements and Information

1. Time Schedule

It is recognized that time is of the essence. All proposers are hereby advised of the following schedule and will be expected to adhere to the required dates and times.

EVENT	DATE	TIME (Pacific Standard Time)
RFP available to prospective Proposers	06/16/2009	
Written Question Submittal	07/02/2009	
Final Date for Proposal Submission	07/24/2009	2:15 PM
Oral Interviews – (	08/03/2009	
Posting of Notice of Intent to Award	08/10/2009	
BEP*/Risk Assessment*/Pre-Award Audit Findings*	08/15/2009	
Proposed Agreement Award Date (estimate)	10/01/2009	

2. Questions and Answers

Questions regarding this RFP must be submitted in writing. Bidders are encouraged to submit their written questions by **July 2, 2009**.

Written questions must include the individual's name, firm name, complete address and must reference RFP No. 75A0300. Questions must be sent to the following address:

MAILED OR FAXED TO:
Department of Transportation, MS-65
Division of Procurement and Contracts
Attention: **Victoria Anderson**
1727 30th Street
Sacramento, CA 95816

Fax No.: (916) 227-6155

Written responses to all questions will be collectively compiled and mailed, as an Addendum, to each individual or firm who requested this solicitation. An electronic

version of the addendum is uploaded to the Department of Transportation's website and as a courtesy, a hard copy of the addendum is sent to each individual or firm who requested this solicitation package.

It is the responsibility of the Proposer to check the Department's website: <http://www.caltrans-opac.ca.gov/contract.htm> for any addenda prior to this solicitation due date.

3. Technical Proposal Requirements

An original proposal marked "ORIGINAL COPY" and **6** copies will be required for the Technical Proposal. Each Technical Proposal shall contain at a minimum, all required items listed below. Each requirement's location must be listed in a Technical Proposal Table of Contents.

A. Management

The prospective Contractor shall designate, by name, the Project Manager to be employed. The selected Contractor shall not cause the substitution of the Project Manager without prior written approval of the State.

B. Consultant Experience

1. The Contractor shall demonstrate experience in:

- Applying the findings of marketing research to identify the marketing target and design and execute advertising strategies to reach the desired goals.
- Creative development and production of print, radio, television, outdoor and direct mail advertising.
- Ad placement and media buys.
- Successful value added promotions in conjunction with media buys.
- Successful cooperative advertising promotions.
- Retail Marketing Campaigns.

2. The proposal must include a description, no longer than two (2) pages, of marketing activities that establish the length of time the advertising agency has been in business.

C. Work Plan and Work Schedule

The prospective Contractor shall provide a written description outlining how the agency will provide full service capability: account services, creative staff, media planners/buyers, production planning and execution, research and expert advice on key trends and issues in general marketing advertising. The prospective contractor shall develop a work plan and/or schedule for task completion. Identify each major task, necessary subtask, and/or specific milestones by which progress can be measured and payments made. The work plan or schedule shall specify the estimated hours to accomplish each task.

D. Personnel

1. The prospective Contractor shall list all personnel who will be working on the project. Include their titles, qualifications, a summary of similar work or studies performed, a resume for each professional, a statement indicating how many hours each professional will be assigned to the Agreement and what tasks each professional will perform. The Contractor shall not cause members of the project team to be substituted without prior written approval of the State.

2. Contractor's Project Manager

The prospective Contractor shall identify one (1) individual on the Contractor's project team who will manage the contract work. Document overall experience in advertising accounts, with a minimum of five (5) years of service in this area. The Project Manager must be available to the Department as needed to effectively manage this contract.

3. Account Team/Resumes

The prospective Contractor must specify the project team and key personnel who will manage/conduct the work; describe the tasks each professional will perform and a summary of similar work performed; and a statement indicating how many hours each professional will be assigned to the contract. The prospective Contractor shall not substitute members of the project team without prior written approval of the State.

Current resumes must be attached for each person. Resumes shall provide education, experience and expertise with pertinent information demonstrating qualifications for this contract. Do not exceed two (2) pages per person.

4. Organization Chart

The prospective Contractor must submit an organization chart showing the hierarchy of key personnel assigned to this project. The organization chart must show the relationship between the Project Manager and key personnel

of the proposer's organization, and all other parties, including subcontractors.

E. References

1. The prospective Consultant shall provide at least three (3) clients for whom the prospective Consultant has performed work similar to that proposed in this request. Each reference must have:
 - Firm Name,
 - Contact Name,
 - Street Address,
 - City, State, Zip Code,
 - Telephone Number,
 - Brief Description of Service provided,
 - Service Dates, and
 - the Service Value/Cost.
2. A one (1) page summary statement for each assignment shall be provided. In selecting these references, the prospective Contractor should focus on accounts upon which the personnel proposed for this contract have been employed.

F. Subcontracts

1. If subcontractors are to be used, the prospective Contractor must include in the Technical Proposal, a description of each person or firm and the work to be done by each subcontractor. All subcontracts must be approved by the State, and no work shall be subcontracted without the prior written approval of the State. The cost of the subcontract work is to be itemized in the Cost Proposal as described below in the section entitled **Cost Proposal Requirements**. Any costs, either prime Contractor or subcontractor, stated in any way in the Technical Proposal will result in rejection of the proposal.
2. The prospective Contractor shall identify all proposed subcontractor(s) and identify which portions of service will be performed by subcontractor(s) and their ability to do the work. Following the format described above for the prospective Contractor, include descriptions of previous comparable work performed by the proposed subcontractor(s), three (3) references, and current resumes of subcontractor(s)' key personnel assigned to this task. Do not exceed two (2) pages per person.

G. Samples of Work

1. The prospective Contractor will submit examples of creative work by the person or persons who will service the Department's account. The examples should be of work produced within the past five (5) years. Samples of work should include:
 - Two (2) television ads on a DVD.

- Two (2) radio ads on the same DVD.
 - Two (2) print ads (newspaper or magazine).
 - Three (3) outdoor ads (5"x7" or 8"x10" photos are acceptable).
 - Three (3) additional items (any medium) which illustrate the agency's unique creative strengths.
 - Online advertising samples.
2. For each of the above, list the marketing objective, the target market, ad placement locations, the creative strategy, and the creative team, indicating persons who worked on the project and will be assigned to the Department's account.

H. Proposed Advertising Program Approach

This section shall illustrate how the prospective Contractor, based on present knowledge, would allocate resources and pursue the objectives to be met by the RFP. The prospective Contractor shall describe the overall approach to the work, specific techniques that will be used and specific administrative and operational management expertise that will be employed. The approach must include, but is not limited to, a draft advertising and media plan with rationale for recommendations, (see **Attachment 7, Criteria for Evaluation**, item IV, Contractor's Creative Samples) and a breakdown for production, labor, etc.) This proposed program approach shall cover the entire 36-month period of the contract.

I. Page Headers and Page Numbering

All pages of the Technical Proposal, including cover pages, Table of Contents, references and resumes, shall have the following header and page numbering format in the upper right-hand corner:

Technical Proposal
Date
Contract No. 75A0300
Attachment 1
Page # of ##

- J. Brochures, tapes, drawings, or other promotional materials. being submitted with Technical Proposals shall be clearly identified as to the name of the Proposer and the RFP number.

4. Darfur Contracting

- A. Effective January 1, 2009, all solicitations for goods or services must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, *et seq.*; Stats. 2008, Ch. 272). The Act was passed by the California Legislature and signed into law by the Governor to preclude State

- agencies generally from contracting with “scrutinized” companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.
- B. A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a)).
 - C. Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a “scrutinized” company when it submits a bid or proposal to a State agency.
 - D. A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b).

5. Cost Proposal Requirements

A. Cost Detail Format

- 1) The proposed work should be broken down into the outline in the Work Plan and Work Schedule [Refer to Section 3 (C) above] for the purpose of this proposal. The resultant Agreement cannot exceed the budgeted allocations of **\$9,000,000.00**. The Cost Proposal, and only the Cost Proposal, shall describe in detail all items that will be charged to the State including travel charges that will be involved and included in the bid amount. Costs shall be segregated to show actual salary costs including hours, rates, classifications, administrative overhead and fringe benefit expenses.
- 2) Cost Proposals shall follow the format provided in **Attachment 2**. Cost Proposal information consists of: Cost Proposal and Preference Program Documents (See **Section D**, Preference Programs).

B. Subcontracts

The breakdown of subcontract costs shall follow the same format.

C. Page Headers and Page Numbering

All pages of the Cost Proposal, including cover pages, Table of Contents, and if applicable, Special Programs documents such as DVBE forms: Documentation of Disabled Veteran Business Enterprise Program Requirements, STD 840; Additional Disabled Veteran Business Enterprise Contacts, STD 840A, the Bidder Declaration, GSPD-05-105, as appropriate; shall have the following header and page numbering format in the upper right-hand corner:

Cost Proposal
Agreement No. 75A0300
Date
Attachment 2

Page # of ##

6. Submission of Proposal

- A. If the proposal is made under a fictitious name or business title, the actual legal name of Proposer must be provided.
- B. Proposals should provide straightforward and concise descriptions of the proposer's ability to satisfy the requirements of this RFP. The proposal must be complete and accurate. Omissions, inaccuracies or misstatements will be sufficient cause for rejection of a proposal.
- C. The original proposal must be single sided and marked "ORIGINAL COPY". All documents contained in the original proposal package **must have original signatures and must be signed by a person who is authorized to bind the proposing firm**. All additional proposal sets may contain photocopies of the original package. Due to limited storage space, the proposal package should be prepared using the least expensive binding possible (i.e., cover page with staple in upper left-hand corner; please refrain from using spiral binding, three ring binders, or other fancy bindings).
- D. The State does not accept alternate Agreement language from a prospective Consultant. A proposal with such language will be considered a counter proposal and will be rejected. The State's General Terms and Conditions (GTC) are not negotiable. The GTC 307 may be viewed at Internet site www.dgs.ca.gov/contracts.
- E. Proposals must be submitted no later than **2:15 P.M. on July 24, 2009**. Proposals received **after** this date and time **will not** be considered and will be returned unopened.
- F. Proposals must be submitted in (1) sealed package/envelope. The one sealed package/envelope should then be described below in Item G.
- G. The Technical and Cost Proposals should be labeled as follows:

:

1ST SEALED PACKAGE/ENVELOPE

Agency/Firm Name

RFP Number: **75A0300**

RFP Title: **Advertising and
Promotional Campaign for San
Joaquin and Pacific Surfliner
Routes and Statewide Rail Safety
Program**

RFP Due Date: July 23, 2009

**TECHNICAL PROPOSAL
DO NOT OPEN**

- H. All packages not properly labeled as indicated below, including overnight mail, may be rejected. Proposals must be submitted for the performance of all services described herein. Any deviation from the work specifications will not be considered and will cause a proposal to be rejected.
- I. Both Proposals (Technical and Cost Proposal) shall be packaged and mailed together. Label (as instructed below) and Mail or deliver package to the following location.

The mailing package/envelope should be labeled as follows:

**YOUR RETURN
ADDRESS**

**Agreement No. 75a0300
Bid Due Date: July 24, 2009**

Postage

**Department of Transportation
Division of Procurement and Contracts
1727 30th Street, FMIII, 4th Floor, MS-65
Sacramento, CA 95816-7006**

ATTN: BID UNIT

- * If your proposal is hand delivered, you must date and time stamp it immediately upon arrival. The date/time stamp machine is located in the lobby of the first floor to the right of the security guard station at the address noted above. After date/time stamping, proposals should be placed in the locked bid cabinet located below the time stamp. If the proposal package is too large to be electronically stamped, date/time stamp one of the labels provided and attach it to the proposal package. When the proposal package is too large for the locked bid cabinet, ask the security guard to call the Contracts' reception desk at 227-6000 to have your bid package picked up by the Bid Unit staff.
- J. All Proposals shall include the documents identified in the Required Attachment Checklist, **Attachment 6**. Proposals not including the required attachments shall be deemed non-responsive and rejected. A non-responsive Proposal is one that does not meet the basic proposal requirements.
- K. Proposals must be submitted for the performance of all services described herein. Any deviation from the work specifications may be cause for rejection.
- L. Each prospective Contractor's Technical Proposal will be reviewed to determine if it meets the proposal requirements contained in the section **Technical Proposal Requirements** (above – page 10 through 14). Failure to meet the requirements for the RFP may be cause for rejection of the proposal.

- M. A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. The State may reject a proposal that is not responsive, does not meet the technical standards, or is not from a responsible proposer, or may reject all proposals. The State may also waive any immaterial deviation in a proposal. The State's waiver of immaterial defect shall in no way modify the RFP document or excuse the Proposer from full compliance with all requirements if the Proposer is awarded the Agreement.
- N. Costs for developing proposals and in anticipation of award of the Agreement are entirely the responsibility of the Proposer and shall not be charged to the State of California.
- O. Only an individual who is authorized to contractually bind the proposing firm shall sign the Proposal/Proposer Certification Sheet, **Attachment 4**. The signature must indicate the title or position that the individual holds in the firm. The proposer's proposal may be rejected if the Proposal/Proposer Certification Sheet is not signed.
- P. A Proposer may withdraw its proposal by submitting a written withdrawal request to the Contract Analyst identified in this solicitation. The request must be signed by the Proposer or an authorized agent. A Proposer may thereafter submit a new proposal prior to the proposal submission deadline.
- Q. The Department of Transportation may modify the RFP up to the specified time of the date fixed for submission of proposals by the issuance of an addendum.
- R. It is the responsibility of the Proposer to check the Department's website: www.caltrans-opac.ca.gov/contract.htm for any addenda prior to the solicitation due date. As a courtesy, the Department will send hard copies of the addenda to all Proposers who requested a copy of the original solicitation package.
- S. The State reserves the right to reject all proposals.
- T. Before submitting their proposals, Proposers should carefully proof them for errors and adherence to the RFP requirements.
- U. Where applicable, Proposer should carefully examine work sites and specifications. Proposer shall investigate conditions, character, and quality of surface or subsurface materials or obstacles that might be encountered. No additions or increases to the agreement amount will be made due to a lack of careful examination of work sites and specifications.
- V. More than one proposal from an individual, firm, partnership, corporation or association under the same or different names, will not be considered. Reasonable grounds for believing that any Proposer has submitted more than one proposal for the work contemplated herein will cause the rejection of all proposals submitted by that Proposer.

7. Evaluation Process

- A. At the time of proposal opening, each proposal will be checked for the presence and/or absence of required information in conformance with the submission requirements of this RFP.

- B. The State will evaluate each proposal to determine its responsiveness to the solicitation. Technical proposals and, if applicable, oral presentations will be rated by an evaluation committee using the consensus process detailed in the Department of Transportation's RFP Evaluation Standards and Procedures.
- C. Proposals that contain false or misleading statements, or which provide references, which do not support an attribute or condition claimed by the Proposer, shall be rejected.
- D. An evaluation committee will evaluate those Proposals that meet the proposal submission requirements. The evaluation will be based on the criteria shown on Criteria for Evaluation of Consultant Technical Proposals. (**Attachment 7**). The highest combined score will be awarded the contract.
- E. Small business or microbusiness proposers (SB) shall be granted a five percent preference (to a maximum of \$50,000) of the cost component received from the highest scored proposal (if non-certified SB). The preference will be used as the evaluation amount to apportion cost points only.
- F. Small business (SB) or Microbusiness (MB) proposers certified by the Department of General Services, Office of Small Business and DVBE Services (OSDS), for evaluation purposes, shall be granted a five percent (5%) preference from the highest scored proposal (total score) if the highest scored proposal is from a non-certified small business or microbusiness.
- G. Non-Small Business proposers who commit to subcontracting a minimum of 25% of their net bid price, in the categories most appropriate to accomplish the prescribed services, may also be granted this preference. Proposers must complete
- H. The proposal evaluation will be a combined evaluation of the Technical Proposal, Cost Proposal, and an Oral Presentation. Proposers will be contacted to schedule a date and time for the oral presentation. Evaluations will be based on **Attachment 7**, Criteria For Evaluation. It is anticipated that oral presentations will be held in the **City of Sacramento**.
- I. The Agreement will be awarded to the Proposer with the highest combined score who meets the requirements outlined in this RFP, pending approval (if applicable) by the Department's Business Enterprise Program, of that proposal's satisfactory compliance of the DVBE requirements, and approval of any applicable Preference Programs set forth in this RFP.
- J. If no proposals are received containing bids offering a price, which in the opinion of the Department is a reasonable price, the Department is not required to award an Agreement (Public Contract Code 10344 (d)).
- K. The prospective Consultant is advised that should this RFP result in an award of an Agreement, the Agreement will not be in force and no work shall be performed until the Agreement is fully approved by the State and the Consultant is notified by the Contract Manager to begin work.

- L. In the event of a precise tie, lots will be drawn, or if applicable, the tie will be broken in accordance with Government Code 14838 (f).

M. Pre-Award Audit

Prior to award of the Agreement, a pre-award audit may be performed. The pre-award audit will be conducted in accordance with generally accepted governmental auditing standards as promulgated by the United States General Accounting Office. The scope of the audit will consist of such tests as the auditors consider necessary to assure that the Consultant satisfactorily meets the requirements outlined in Items 1-3 below prior to execution of the Agreement. Upon completion of a pre-award audit, if, in the Department's judgment, one or more of these requirements is not satisfactorily met, Agreement award may be canceled.

- 1) At the time of the pre-award audit, the prospective Consultant must demonstrate through actual historical data that its accounting system is capable of accumulating and segregating reasonable, allocable and allowable costs. For new businesses, if actual historical data is unavailable or the accounting system is newly implemented, the system will be tested to determine whether the accounting system is adequate and, if necessary, recommend that an interim audit be performed. At a minimum, the Consultant must have an accounting system that meets the following objectives:
 - a) The ability to record and report financial data in accordance with generally accepted accounting principles and the Code of Federal Regulations, Title 48, Federal Acquisition Regulations System (FAR), Chapter 1, Part 31.
 - b) The ability to accumulate and segregate reasonable, allocable and allowable costs through the use of a cost accounting system.
 - c) A system of record keeping ensuring that costs billed to the Department of Transportation will be supported by adequate documentation and in compliance with the terms of the Agreement and applicable Federal and State regulations.
 - d) Procedures to retain accounting records and source documentation as required by the terms of the Agreement and applicable Federal and State regulations.
 - e) A system of internal control, which provides reasonable assurance that assets are protected; financial data, records and statements are reliable; and errors and irregularities are promptly discovered, reported and corrected.
- 2) The prospective Consultant must be financially capable of performing the work.
- 3) The costs proposed must be reasonable.

N. Post Award Audit

Attachment 2, Cost Proposal, is subject to a post award audit. Attachment 2 shall be adjusted by the Consultant and approved by the Contract Manager to conform to the audit recommendations. The Consultant agrees that individual items of cost identified in the audit report may be incorporated into the Agreement at the Department's sole discretion. Refusal by the Consultant to incorporate the interim audit or post award recommendations will be considered a breach of the Agreement terms and cause for termination of the Agreement.

8. Award and Protest

- A. Notice of the proposed award shall be posted at the Department of Transportation, 1727 30th Street, Sacramento, 95816 (1st floor Lobby display case), and on the following Internet site: www.caltrans-opac.ca.gov/bidchoic.htm for five (5) working days prior to awarding the Agreement.
- B. Proposers have the right to protest the award of Department of Transportation Agreements subject to the following grounds, processes and procedures.
- 1) If any Proposer, prior to the award of Agreement, files a protest with the Department of Transportation and the Department of General Services, Office of Legal Services, on the grounds that the (protesting) Proposer would have been awarded the Agreement had the Agency correctly applied the evaluation standard in the RFP, or if the Agency followed the evaluation and scoring methods in the RFP, the Agreement shall not be awarded until either the protest has been withdrawn or the State has decided the matter. It is suggested that you submit any protest by certified or registered mail to:

Department of Transportation Division of Procurement & Contracts, MS 65 Attention: Protest and Dispute's Manager 1727 30 th Street Sacramento, CA 95816 Phone Number: (916) 227-6096 Fax Number: (916) 227-6155	Department of General Services Office of Legal Services Attention: Protest Coordinator 707 Third Street, 7 th Floor West Sacramento, CA 95605 Phone Number: (916) 376-5080 Fax Number: (916) 376-5088
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- 2) Within five (5) days after filing the initial protest, the protesting Proposer shall file with the Department of General Services, Office of Legal Services and the Department of Transportation a full and complete written statement specifying the grounds for the protest. It is suggested that you submit this complete written statement by certified or registered mail.
- C. Upon award of the Agreement, Consultant must complete and submit to the Department of Transportation the Payee Data Record (STD 204), to determine if the Consultant is subject to state income tax withholding pursuant to California Revenue and Taxation Code Sections 18662. This form can be found on the Internet at www.osp.dgs.ca.gov under the heading FORMS MANAGEMENT

CENTER. No payment shall be made unless a completed STD 204 has been returned to the Department.

- D. Upon award of the Agreement, Consultant must sign and submit to the Department of Transportation, page one (1) of the Contractor Certification Clauses (CCC), **Attachment 3**, or the form can be obtained via the Internet at www.dgs.ca.gov/contracts.

9. Disposition of Proposals

Upon proposal opening, all documents submitted in response to this RFP will become the property of the State of California, and will be regarded as public records under the California Public Records Act (Government Code Section 6250 et seq.) and subject to review by the public. The State cannot prevent the disclosure of public documents. However, the contents of all proposals, draft proposals, correspondence, agenda, memoranda, working papers, or any other medium which discloses any aspect of a proposer's proposal, shall be held in the strictest confidence until the "Notice of Intent to Award" is posted. We recommend that you copyright any proprietary material submitted.

10. Standard Conditions of Service

- A. Service shall be available no sooner than the express date set by the Department of Transportation and the Consultant, after all approvals have been obtained and the Agreement is fully executed. Should the Consultant fail to commence work at the agreed upon time, the Department of Transportation, upon five (5) days written notice to the Consultant, reserves the right to terminate the Agreement. In addition, the Consultant shall be liable to the State for the difference between Consultant's Proposal price and the actual cost of performing work by the second lowest Proposer or by another Consultant.
- B. All performance under the Agreement shall be completed on or before the termination date of the Agreement.
- C. No oral understanding or agreement shall be binding on either party.

D) Special Program(s)

The following Special Program(s) are applicable to this RFP.

1. Disabled Veteran Business Enterprise (DVBE) Program Requirement

This contract is subject to Public Contract Code (PCC), §10115 et seq., Military and Veterans Code (MVC), §999 et seq., and California Code of Regulations (CCR), Title 2, §1896.60 et seq. which requires the Department have a minimum Statewide Participation Goal of three (3) % for DVBEs. Goals apply to overall dollar amount expended each year by the Department. **The DVBE goal for this specific solicitation is six percent (6%).**

Complete the **Bid/Bidder Certification Sheet, Section 16, (Attachment 4)**. If applicable, attach a copy of your DVBE certification. Refer to California Disabled

Veteran Business Enterprise (DVBE) Program Requirements for further detailed information concerning DVBE program requirements, **Attachment 8**. Complete the **required** DVBE forms: Documentation of Disabled Veteran Business Enterprise Program Requirement form, STD 840; Additional Disabled Veteran Business Enterprise Contacts, STD 840A, as appropriate; and Bidder Declaration, GSPD-05-105. Failure to provide detailed cost breakdowns and any other required DVBE information **will be cause for rejection** of your bid.

Additional References: <http://www.pd.dgs.ca.gov/smbus/default.htm>

In accordance with Military and Veterans Code (MVC), §999 et seq., and California Code of Regulations (CCR), Title 2, §1896.99.100 et seq. an incentive will be given to bidders achieving DVBE participation of one (1) percent or greater for work described in this solicitation. A calculation will be performed against the total possible non-cost points (technical and administrative requirements) based on DVBE information provided on the GSPD-05-105. Should the solicitation not provide points for administrative requirements, calculation shall be applied solely to technical requirements. Information provided on the Bidder Declaration form GSPD-05-105 shall be verified by the State prior to the application of an incentive. The incentive amount is dependent upon the verified DVBE percentage participation. If the highest scored responsive, responsible proposal is a California certified small business, only proposers who are California certified small businesses will be eligible for the incentive.

When applying the DVBE incentive a Non-Small Business shall not displace an award to a California Certified Small Business. Nor shall the DVBE incentive exceed five (5) percent of the total possible points.

The following DVBE percentage participation corresponds to available DVBE Incentive:

Verified DVBE Participation	Incentive Amount
5% and over	5%
4% - 4.99% inclusive	4%
3% - 3.99%	3%
2% - 2.99%	2%
1% - 1.99%	1%

2. Small Business or Microbusiness Preference

GC Section 14835 et seq. requires that a five percent (5%) preference be given to Consultants who qualify as a Certified Small Business or Microbusiness. The rules and regulations of this law, including the definition of a small business for the delivery of services, are contained in 2 CCR 1896 et seq.

To claim the Small Business or Microbusiness preference, your firm must have its principal place of business located in California and be certified by the Department of General Services, OSDS. The preference amount may not exceed \$50,000 for any bid. If prospective Consultant is claiming the five percent (5%) certified Small Business or Microbusiness preference, complete the **Proposal/Proposer Certification Sheet, Section 16**, (Attachment 4) and attach a copy of your certification.

Pursuant to GC Section 14838 and 2 CCR 1896, if a bidder is not a certified small business but wishes to be eligible for the five percent (5%) "non-small business" preference, the bidder must subcontract at least 25% of its net bid price to one or more certified small businesses. If prospective Consultant is claiming the five percent (5%) "non-small business" preference, complete the ***Bid/Bidder Certification Sheet, Section 17, Attachment 4, and complete Bidder Declaration form, GSPD-05-105, with the names of all certified Small Business firms being claimed for credit. Attach a copy of the subconsultant/subcontractor's Certified Small Business certificate for each Small Business subconsultant/subcontractor and a copy of all Small Business subconsultant/subcontractor's quote to the Bidder Declaration form, GSPD-05-105.***

Certified Small business and Microbusiness bidder(s) shall have precedence over "Non-Small Business" bidders in the application of Small Business preference(s).

Small Business Preferences may not be applied to any bid deemed non-responsive with the solicitation instructions or from a responsible bidder.

Questions regarding the certification approval process or Small Business program should be directed to OSDS at (800) 559-5529 or (916) 375-4940. For the 24-Hour Recording & Mail Request call (916) 322-5060.

Or E-mail: osdchelp@dgs.ca.gov

Additional References: <http://www.pd.dgs.ca.gov/smbus/default.htm>

Small business or microbusiness proposers or proposers using the "Non-Small Business" preference shall be granted a preference consisting of five percent of the highest responsible proposer's total score.

ATTACHMENT 2

COST PROPOSAL WORKSHEET

DIRECT LABOR	HOURS	RATE	TOTAL
Project Manager	_____ @	_____	\$ _____
Account Personnel	_____ @	_____	\$ _____
Creative Personnel	_____ @	_____	\$ _____
Media Buyer	_____ @	_____	\$ _____
Total Labor Costs			\$ _____

DIRECT COSTS

Advertising Production	\$ _____
Gross Media Buys	\$ _____
Agency Fee on gross media buys (Not to exceed 10%)	\$ _____
Travel/Equipment/Supplies	\$ _____
Other Direct Costs (Itemized)	\$ _____
Total Direct Costs	\$ _____

INDIRECT COSTS

Overhead	_____ %	\$ _____
Fringe Benefits	_____ %	\$ _____
General/Administrative	_____ %	\$ _____
Total Indirect Costs		\$ _____

Total Subcontractor Costs* \$ _____

*(attach detailed cost proposal in same format for each subcontractor)

TOTAL COSTS not to exceed **\$9,000,00.00**

ATTACHMENT 3
CONTRACTOR CERTIFICATION CLAUSES

CCC-307

CERTIFICATION

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

<i>Contractor/Bidder Firm Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of</i>

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

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

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

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

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

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

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

ATTACHMENT 3

Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

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

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

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

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

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

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

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

ATTACHMENT 3

7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code Section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

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

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

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

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

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

ATTACHMENT 3

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

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

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

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

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

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

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

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

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

ATTACHMENT 4
PROPOSAL/PROPOSER CERTIFICATION SHEET

Only an individual who is authorized to bind the bidding firm contractually shall sign the Proposal/Proposer Certification Sheet. The signature must indicate the title or position that the individual holds in the firm. This Proposal/Proposer Certification Sheet must be signed and returned along with all "required attachments" as an entire package with original signatures. The bid must be transmitted in a sealed envelope in accordance with IFB instructions.

- A. Our all-inclusive bid is submitted in a sealed envelope marked "**Cost Submittal - Do Not Open**".
- B. All required attachments are included with this certification sheet.
- C. I have read and understand the DVBE participation requirements and have included documentation demonstrating that I have met the participation goals or have made a good faith effort.
- D. The signature affixed hereon and dated certifies compliance with all the requirements of this bid document. The signature below authorizes the verification of this certification.
- E. The signature and date affixed hereon certifies that this bid is a firm offer for a 90-day period.

An Unsigned Proposal/Proposer Certification Sheet May Be Cause for Bid Rejection

1. Company Name	2. Telephone Number () ()	2a. Fax Number () ()
3. Address		
Indicate your organization type:		
4. ☐ Sole Proprietorship	5. ☐ Partnership	6. ☐ Corporation
Indicate the applicable employee and/or corporation number:		
7. Federal Employee ID No. (FEIN)	8. California Corporation No.	
Indicate applicable license and/or certification information:		
9. Contractor's State Licensing Board Number	10. PUC License Number CAL-T-	11. Required
12. Bidder' Name (Print)		13. Title
14. Signature		15. Date
16. Are you certified with the Department of General Services, Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS) as:		
a. Small Business Enterprise Yes ☐ No ☐ If yes, enter certification number: _____		
b. Disabled Veteran Business Enterprise Yes ☐ No ☐ If yes, enter your service code below: _____		
NOTE: A copy of your Certification is required to be included if either of the above items is checked " Yes ". Date application was submitted to OSDS, if an application is pending: _____		
17. Are you a Non-Small Business committing to the use of 25% Certified Small Business Subcontractor Participation? Yes ☐ No ☐ If Yes, complete and return the Bidder Declaration form, GSPD-05-105 with your bid.		

ATTACHMENT 4

Completion Instructions for PROPOSAL/PROPOSER CERTIFICATION SHEET

Complete the numbered items on the
Proposal/Proposer Certification Sheet by following the instructions below.

Item Numbers	Instructions
1, 2, 2a, 3	Must be completed. These items are self-explanatory.
4	Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.
5	Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.
6	Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.
7	Enter your federal employee tax identification number.
8	Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.
9	Complete if your firm holds a California contractor's license. This information will be used to verify possession of a contractor's license for public works agreements.
10	Complete if your firm holds a PUC license. This information will be used to verify possession of a PUC license for public works agreements.
11	Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured.
12, 13, 14, 15	Must be completed. These items are self-explanatory.
16	If certified as a Small Business Enterprise, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR.
17	Check the applicable box. Complete and return GSPD-05-105 with your Bid.

Attachment 5
Darfur Contracting Act

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

Therefore, to be eligible to submit a bid or proposal, please complete only one of the following three paragraphs (via initials for Paragraph # 1 or Paragraph # 2, or via initials and certification for Paragraph # 3):

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

OR

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

OR

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

CERTIFICATION For # 3.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective proposer/bidder to the clause listed above in # 3. This certification is made under the laws of the State of California.

<i>Proposer/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County and State of</i>	

ATTACHMENT 6

ATTACHMENT CHECKLIST

A complete Proposal package will consist of the items identified below. Complete this checklist to confirm the items in your Proposal. Place a check mark or "X" next to each item that you are submitting to the State. All attachments identified below are applicable to this RFP and must be returned, as instructed, or your Proposal may be considered non-responsive. **Return this checklist with your Technical Proposal package.**

Technical Proposal and Attachments

Attachments

Attachment Name/Description

Technical Proposal as stated in this RFP (This shall be incorporated into the contract as Attachment 1)

Proposal Attachment Checklist (**RFP Attachment 6**)

Contractor Certification Clauses (CCC 307). The CCC 307 can also be found on the Internet at <http://www.dgs.ca.gov/contracts>. Page one (1) must be signed and submitted prior to the award of the Agreement. (**RFP Attachment 3**)

Darfur Contracting Act (**RFP Attachment 5**)

Cost Proposal and Attachments

Attachments

Attachment Name/Description

Proposal/Proposer Certification Sheet (**RFP Attachment 4**)

Cost Proposal (**RFP Attachment 2**)

Documentation of DVBE Program Requirements, STD. 840; Additional DVBE Contacts, STD. 840A, with all necessary attachments and Bidder Declaration form, GSPD-05-105. (**RFP Attachment 8**)

Bidder Declaration, GSPD-05-105 (**RFP Attachment 9**)

ATTACHMENT 7
CRITERIA FOR EVALUATION OF CONSULTANT TECHNICAL PROPOSALS

Technical Proposal Evaluation:	Maximum Possible Score (Weighted Score)	Consensus Determination - %	Score
I. CONTRACTOR'S UNDERSTANDING OF THE RAIL PROGRAM AND OBJECTIVES (8 points)			
A. Demonstrated knowledge of intercity passenger rail service in California	5		
B. Demonstrated understanding of the State's and Amtrak's roles in providing passenger rail service	3		

NARRATIVE

II. CLARITY AND ORGANIZATION OF PROPOSAL RESPONSE (6 points)			
A. Clarity of Proposal	2		
B. Organization of Proposal	2		
C. Conciseness of Proposal	2		

NARRATIVE

III. CONTRACTOR QUALIFICATIONS AND EXPERIENCE (includes subcontractors) (14 points)			
A. References	3		
B. Resumes	3		
C. Consultant Team Organization	3		
D. Experience with statewide retail campaigns	5		

NARRATIVE

IV. CONTRACTOR'S SAMPLES OF WORK (8 points)			
A. Relationship to Purpose and Objective	3		
B. Creativity	5		

NARRATIVE

V. CONTRACTOR'S PROPOSED ADVERTISING PROGRAM APPROACH (24 points)			
A. Allocation of Resources	6		
B. Sample Plan	6		
C. Rationale	6		
D. Approach to reach stated objective	6		

NARRATIVE

TOTAL POSSIBLE	60 points
TOTAL ACTUAL	
TOTAL PERCENT	

ATTACHMENT 7

CRITERIA FOR EVALUATION OF CONSULTANT'S ORAL PRESENTATION

Oral Presentation Evaluation:	Maximum Possible Score (Weighted Score)	Consensus Determination - %	Score
VI. COMPLETENESS OF ANSWERS TO QUESTIONS REGARDING THE PROPOSED WORK PLAN (10 points)			
Experience of personnel assigned to the account.	10		
NARRATIVE			
VII. QUALITY OF PROPOSED STRATEGIES AND WORK SAMPLES (10 points)			
Including thinking behind strategies.	10		
NARRATIVE			
VIII. RESPONSES TO QUESTIONS REGARDING AGENCY / CLIENT PHILOSOPHY AND POLICIES (10 points)			
How will the Contractor meet the Department's Mission of Improving Mobility Across California	10		
NARRATIVE			
IX. QUALITY AND VARIETY OF CREATIVE CONCEPTS (10 points)			
The quality and creativity of submitted sample work.	10		
NARRATIVE			
TOTAL POSSIBLE	40 points		
TOTAL ACTUAL			
TOTAL PERCENT			

ATTACHMENT 7
CRITERIA FOR EVALUATION OF COST PROPOSAL

Cost Proposal Evaluation:	Maximum Possible Score (Weighted Score)	Consensus Determination - %	Score
X. LABOR COSTS (20 points)			
A. Personnel to service account	4		
B. Personnel hours	4		
C. Cost / hour	4		
D. Subcontractor costs	4		
E. As a percentage of total budget	4		

NARRATIVE

XI. DIRECT COSTS (30 points)			
A. Gross media as a percentage of total budget	10		
B. Advertising production costs	5		
C. Agency commission on gross media	5		
D. Travel / Equipment / Supplies / Other	5		
E. As a percentage of total budget	5		

NARRATIVE

XII. INDIRECT COSTS (20 points)			
A. Overhead Rate	5		
B. Fringe Benefits	5		
C. Administrative Costs	5		
D. As a percentage of total budget	5		

NARRATIVE

XIII. OVERALL COST COMPETITIVENESS COMPARED TO ALL PROPOSERS (30 points)			
A. includes profit % (fee) and final total cost	30		

NARRATIVE

TOTAL POSSIBLE	100 points
TOTAL ACTUAL	
TOTAL PERCENT	

GRAND TOTAL	200 POINTS
GRAND ACTUAL TOTAL	
GRAND TOTAL PERCENT	

Please Note: The highest combined score will be awarded the contract.

CALIFORNIA DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PROGRAM REQUIREMENTS

(Revision Date 12/06/2007)

Please read the requirements and instructions carefully before you begin.

AUTHORITY. The Disabled Veteran Business Enterprise (DVBE) Participation Goal Program for State contracts is established in Public Contract Code (PCC), §10115 et seq., Military and Veterans Code (MVC), §999 et seq., and California Code of Regulations (CCR), Title 2, §1896.60 et seq.

The minimum DVBE participation percentage (goal) is 5% for this solicitation unless another percentage is specified in the solicitation.

INTRODUCTION. The bidder must complete the identified forms and fully document at least one of the options (A, B or C) in this document to comply with this solicitation's DVBE program requirements. Bids or proposals (hereafter called "bids") that **fail to submit all required forms and fully document and meet one of the DVBE program requirement options shall be considered non-responsive.**

Information submitted by the intended awardee to comply with this solicitation's DVBE requirements will be verified by the State. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation, in accordance with the requirements of the PCC §10115, et seq., and MVC §999 et seq., and follow the investigatory procedures required by the CCR §1896.80. Contractors found to be in violation of certain provisions may be subject to loss of certification, penalties and/or contract termination.

Only State of California, Office of Small Business and DVBE Services (OSDS), certified DVBEs (hereafter called "DVBE") who perform a commercially useful function relevant to this solicitation, may be used to satisfy the DVBE program requirements. The criteria and definition for performing a commercially useful function are contained herein on the page entitled **Resources & Information**. Bidders are to verify each DVBE subcontractor's certification with OSDS to ensure DVBE eligibility.

PLEASE READ ALL INSTRUCTIONS CAREFULLY. These instructions contain information about the DVBE program requirements, bidder responsibilities, requirements for performing and documenting each of the three available options (Option A, Option B, or Option C) as detailed below, and the DVBE Bid Incentive. Bidders are responsible for thorough review and compliance with these instructions. Complete and document your option selection and related information on the forms identified herein.

To meet the DVBE program requirements, bidders must complete and fully document at least one of the following compliance options:

Option A - Commitment to full DVBE participation - For a bidder who is a DVBE or who is able to meet the commitment to use identified certified DVBE(s) to fulfill the full DVBE participation goal.

Option B - Good Faith Effort - For a bidder documenting its completed effort, made prior to the bid due date, to obtain DVBE participation that may result in partial or no DVBE participation. (For partial participation, identified certified DVBE(s) must be used).

Option C - Business Utilization Plan - For a bidder using an annual plan (subject to pre-bid submission approval) to satisfy DVBE participation requirements. Applies only to solicitations for goods and information technology.

OPTION A – COMMITMENT -- Commit to meet or exceed the DVBE participation requirement in this solicitation by either Method A1 (bidder is a California certified DVBE) or A2 (bidder is not a California certified DVBE). Bidders must document DVBE participation commitment by completing and submitting the attached Documentation of Disabled Veteran Business Enterprise Program Requirements (STD. 840) and the Bidder Declaration (GSPD-05-105) located elsewhere within the solicitation document. Failure to complete and submit the required forms as instructed shall render the bid non-responsive.

At the State's option prior to award of the contract, a written confirmation from each DVBE subcontractor identified on the Bidder Declaration must be provided. As directed by the State, the written confirmation must be signed by the bidder and/or the DVBE subcontractor(s). The written confirmation may request information that includes but is not limited to the DVBE scope of work, work to be performed by the DVBE, term of intended subcontract with the DVBE, anticipated dates the DVBE will perform required work, rate and conditions of payment, and total amount to be paid to the DVBE. If further verification is necessary, the State will obtain additional information to verify the above requirements.

Method A1. Certified DVBE bidder:

- a. Commit to performing at least 5% of the contract bid amount (unless otherwise specified) with the prime bidder's firm or in combination with another DVBE(s).
- b. Document option intention on the STD. 840 (Section A) and document DVBE participation on the Bidder Declaration GSPD-05-105.
- c. At the State's option a DVBE bidder working in combination with other DVBEs shall submit proof of its commitment by submitting a written confirmation from the DVBE(s) identified as a subcontractor on the Bidder Declaration. When requested, the document must be submitted to the address or facsimile number specified and within the timeframe identified in the notification. Failure to submit the written confirmation as specified may be grounds for bid rejection.

Method A2. Non-DVBE bidder: YOUR RETURN
ADDRESS

Agreement No. 75a0300

Postage

Bid Due Date: July 23, 2009

Department of Transportation
Division of Procurement and Contracts
1727 30th Street, FMIII, 4th Floor, MS-65
Sacramento, CA 95816-7006

ATTN: BID UNIT

- a. Commit to using certified DVBE(s) for at least 5% (unless otherwise specified) of the bid amount.
- b. When a bidder commits to less than the required 5% DVBE participation or its commitment may fall below 5% such as when specific line items/groups are not selected for award, then Option B, Good Faith Effort must be completed.
- c. Document option intention on the STD. 840 (Section A) and document DVBE participation on the Bidder Declaration GSPD-05-105. Note: If Option B is selected, see Good Faith Effort documentation requirements below.
- d. At the State's option prior to contract award, a bidder is to submit proof of its commitment by submitting a written confirmation from each DVBE identified as a subcontractor on the Bidder Declaration GSPD-05-105. The awarding department contracting official named in the solicitation may contact each listed DVBE, by mail, fax or telephone, for verification of the bidder's submitted

DVBE information. When requested, the document must be submitted to the address or facsimile number specified and within the timeframe identified in the notification. Failure to submit the written confirmation as specified may be grounds for bid rejection.

OPTION B – GOOD FAITH EFFORT (GFE) performance and documentation requirements must be completely satisfied prior to bid submission if the bidder is unable to obtain and commit to the full DVBE participation percentage goal (Option A) and does not exercise Option C. Perform and document the following Steps 1 through 5 on both pages of the attached STD. 840 form. Failure to perform and document GFE Steps 1 through 5 as instructed, which includes properly completing and submitting both pages of STD. 840 and the Bidder Declaration GSPD-05-105, shall result in the bid being deemed non-responsive. Step 3, Advertisement, is required unless specifically waived for this solicitation due to time limits imposed by the awarding department.

Step 1: Awarding Department (PCC §10115.2[b][1])

Contact Caltrans, Civil Rights Program by accessing their web site at <http://www.dot.ca.gov/hq/bep> for assistance in identifying DVBEs. You may also fax your request for assistance to Civil Rights at (916) 324-8760, or you may phone (916) 324-1700 or the Toll Free Number (866) 810-6346. The contact must be fully documented and the results described on the STD. 840 (Page 1), Section B, Step 1.

Step 2: Other State and Federal Agencies, and Local Organizations (PCC §10115.2[b][2])

All three entities must be contacted. For searches that are accomplished online, attach screen print(s) of Web results for verification. The screen prints should be current and coincide with the goods/services sought in the State's solicitation.

STATE: Access the list of all certified DVBEs by using the Department of General Services, Procurement Division (DGS-PD), Office of Small Business and DVBE Services (OSDS) online certified firm database at www.pd.dgs.ca.gov/smbus. Begin by selecting "Search for Certified SBs and DVBEs by Specific Criteria." Search by Keywords and/or click on "Include SIC Codes in Search" if you wish to also search by SIC codes. You should also check for subcontractor ads that may be placed on the California State Contracts Register (CSCR) for this solicitation prior to the closing date. You may access the CSCR at: <http://www.cscr.dgs.ca.gov/cscr/>. For questions regarding the online certified firm database and the CSCR, please call the OSDS at (916) 375-4940. All contacts must be fully documented and the results described on the STD. 840 (Page 1), Section B, Step 2.

FEDERAL: Search the U.S. Small Business Administration's (SBA) Central Contractor Registration (CCR) on-line database at www.ccr.gov/ to identify potential DVBEs and click on the "Dynamic Small Business Search" button. Search options and information are provided on the CCR Dynamic Small Business Search site. First time users should click on the "help" button for detailed instructions. You must fully document this contact and describe the results on the STD. 840 (Page 1), Section B, Step 2.

LOCAL: Contact at least one local DVBE organization to identify DVBEs. For a list of local DVBE organizations, please refer to the DVBE Resource Packet that may be accessed online (www.pd.dgs.ca.gov/smbus - select "DVBE Resource Packet") or obtain a hardcopy by requesting it from DGS-PD Office of Small Business and DVBE Services (see the Resources & Information page provided herein). You must fully document your contact with local DVBE organizations and describe the results on the STD. 840 (Page 1), Section B, Step 2.

Step 3: Advertisements (PCC §10115.2[b][3])

Advertisements are mandatory unless waived by the awarding department within the solicitation.

CONTENT REQUIREMENTS: Include all of the following in your advertisement(s): (1) company name; (2) contact name; (3) address; (4) telephone and facsimile numbers (if applicable); (5) e-mail address (if applicable); (6) the State's solicitation number; (7) description of goods and/or services for which subcontractor participation is sought (Note: It must be goods and/or services for which the subcontractor will be performing a commercially useful function); (8) the location(s) of work to be performed; (9) the State's bid due date and/or your due date for receiving DVBE responses.

HOW MANY & WHERE TO PUBLISH: Bidders must publish at a minimum, two (2) ads: one (1) each in a trade paper and a DVBE focus paper unless the paper has a dual purpose (fulfilling both trade and focus requirements as defined in CCR, Title 2, §1896.61(k)), in which case one (1) ad is acceptable in lieu of the two (2) mentioned above. Please see the DVBE Resource Packet for a list of acceptable publications.

WHEN: Pursuant to CCR §1896.63(2), advertisements must be published after the solicitation's release date and at least 14 days prior to the bid due date, unless a different time period is expressly established in this solicitation.

DOCUMENT & SUBMIT: On the STD. 840 (Page 2), Section C, Step 3, document the publication name(s) where advertisement(s) were published, the contact name and phone number, and the date of publication. Include a copy of the advertisement(s) with your bid.

Step 4: Invitations to Participate (PCC §10115.2[b][4])

WHO: Invite (solicit) DVBEs who can provide relevant goods and/or services to this solicitation to subcontract with you. Conducting Steps 1 through 3 produces a list of DVBEs from which you may choose potential DVBE subcontractors to contact. Bidders are advised to contact as many DVBEs (who provide relevant goods and/or services in the applicable location(s)) as possible.

Only California certified DVBEs should be contacted -- please refer non-California certified DVBEs to the OSDS to learn about certification (see the Resources & Information page for contact information).

FOR WHAT: Solicit DVBEs for goods and/or services relevant to the State's solicitation. If you are unable to identify specific portions of the proposed contract to subcontract, the State encourages bidders to avoid making a predetermination that no DVBEs are able to perform or no portions of the work can be subcontracted, without first contacting and soliciting participation from them. This allows DVBEs to respond whether they can or cannot provide goods or services related to the solicitation, and provides a bidder with responses for consideration.

HOW TO INVITE & CONTENT REQUIREMENTS: **Written invitations are required.** At a minimum, invitations must contain all of the following: (1) company name; (2) contact name; (3) address; (4) telephone and facsimile (if applicable) numbers; (5) return e-mail address (if applicable); (6) the State's solicitation number; (7) description of goods and/or services for which subcontractor participation is sought (Note: It must be goods and/or services for which the subcontractor will be performing a commercially useful function); (8) the location(s) of work to be performed; (9) the State's bid due date and/or your due date for receiving DVBE responses.

The invitation should also include the anticipated schedule for subcontractor performance and terms/conditions related to payment of the subcontractor.

WHEN: Provide DVBEs with a reasonable time period to receive and respond to your invitation, and to be considered by you for participation as described in Step 5 (below), prior to your bid submission.

DOCUMENT & SUBMIT: Bidders must document the completed contacts on STD. 840 (Page 2), Section C. Attach additional copies of STD. 840A as necessary to list your DVBE contacts. You are required to attach a copy of: (1) each invitation or offer sent by mail, fax or e-mail; and (2) should include confirmation of transmittal or delivery. Your bid may be considered non-responsive if it fails to include copies of the written invitations and delivery confirmations.

Step 5: Consider all responding DVBEs for contract participation (PCC §10115.2[b][5])

Consideration must be based on business needs for this contract and the same evaluation criteria must be applied to each potential DVBE subcontractor offering the same goods and services. Any firm selected for participation must be documented on the Bidder Declaration GSPD-05-105. Bidders must commit to using the certified DVBEs in the capacity and for the amount identified on the GSPD-05-105. Any firm not selected must be identified on the STD. 840 (Page 2), Section C, and the reason for non-selection documented on the form. Attach additional copies of STD. 840A as necessary to list all of your DVBE contacts that were not selected.

OPTION C – THE DVBE BUSINESS UTILIZATION PLAN (BUP) option permits bidders to submit an approved DVBE BUP to satisfy DVBE participation solicitation requirements up to 5%. **DVBE BUPs apply only to solicitations for goods and Information Technology (IT) goods and services.** DVBE BUPs are a company's commitment to expend a minimum of 5% of its total statewide contract dollars with DVBEs -- this percentage is based on all of its contracts held in California, not just those with the State. DVBE BUPs must be submitted to and approved by the DGS-PD prior to the bid due date. Please call the DGS-PD, Office of Small Business and DVBE Services for assistance. Bidders choosing this option must properly complete and submit STD. 840 (Section A), the Bidders Declaration (GSPD-05-105), and include a copy of its approval letter with the bid; failure to submit these documents shall render your bid non-responsive.

DVBE BID INCENTIVE. Unless stated elsewhere in the solicitation that the DVBE incentive has been waived, in accordance with Section 999.5(a) of the Military and Veterans Code an incentive will be given to bidders who provide DVBE participation. For evaluation purposes only, the State shall apply an incentive to bids that propose California certified DVBE participation as identified on the Bidder Declaration GSPD-05-105 and confirmed by the State. The incentive amount for awards based on low price will vary in conjunction with the percentage of DVBE participation. Unless a table that replaces the one below has been expressly established elsewhere within the solicitation, the following percentages will apply for awards based on low price.

Confirmed DVBE Participation of:	DVBE Incentive:
5% or Over	5%
4% to 4.99% inclusive	4%
3% to 3.99% inclusive	3%
2% to 2.99% inclusive	2%
1% to 1.99% inclusive	1%

As applicable: (1) Awards based on low price - the net bid price of responsive bids will be reduced (for evaluation purposes only) by the amount of DVBE incentive as applied to the lowest responsive net bid price. If the #1 ranked responsive, responsible bid is a California certified small business, the only bidders eligible for the incentive will be California certified small businesses. The incentive adjustment for awards based on low price

cannot exceed 5% or \$100,000, whichever is less, of the #1 ranked net bid price. When used in combination with a preference adjustment, the cumulative adjustment amount is not to exceed \$100,000.

(2) Awards based on highest score - the solicitation shall include an individual requirement that identifies incentive points for DVBE participation.

RESOURCES AND INFORMATION

For questions regarding bid documentation requirements, **contact the contracting official at the awarding department for this solicitation.** In accordance with Public Contract Code Section 10115.2(b)(3), bidders must advertise in trade and focus publications unless the requirement is waived. The Department of General Services, Procurement Division (DGS-PD) publishes a list of trade and focus publications to assist bidders in meeting these contract requirements. To obtain this list, please contact the DGS-PD Office of Small Business and DVBE Services and request the "DVBE Resource Packet."

U.S. Small Business Administration (SBA):
Use the Central Contractor Registration (CCR) on-line database.
Internet contact only –Database: www.ccr.gov/.

FOR:
Service-Disabled Veteran-owned businesses in California (Remember to verify each DVBE's California certification.)

Local Organizations (see the DVBE Resource Packet available from DGS-PD DVBE Program Section listed below)

FOR:
List of potential DVBE subcontractors

DGS-PD Office of Small Business and DVBE Services (OSDS)
707 Third Street, Room 1-400, West Sacramento, CA 95605

Website: www.pd.dgs.ca.gov/smbus

OSDS Receptionist, 8 am-5 pm: (916) 375-4940

PD Receptionist, 8 am-5 pm: (800) 559-5529

Fax: (916) 375-4950

Email: osdchelp@dgs.ca.gov

FOR:

- Directory of California-Certified DVBEs
- Certification Applications
- Certification Information
- Certification Status, Concerns
- General DVBE Program Info.
- DVBE Resource Packet
- DVBE Business Utilization Plan
- Small Business/DVBE Advocates

ADVERTISEMENT FORMAT EXAMPLE

This example offers a suggested format that includes required information outlined in Option B, Good Faith Effort, Step 3. You can substitute the applicable information for the bolded, italicized words.

DVBES are invited to participate as a potential subcontractor to perform a commercially useful function specific to **DGS' IFB No. 12345** for ***fencing materials in Chowchilla.***

***DVBE responses due to me 1/1/02;
Bids due to the State 1/15/02.***

Contact: **ABC Company**
Jane Doe, General Manager
123 Main Street, Sacramento, CA 95814
voice: **555/555-5555**; fax: **555/555-5556**
or e-mail: ***jane.doe@abcco.com***

Commercially Useful Function Definition

California Code of Regulations, Title 2, § 1896.61(l):

The term "DVBE contractor, subcontractor or supplier" means any person or entity that satisfies the ownership (or management) and control requirements of §1896.61(f); is certified in accordance with §1896.70; and provides services or goods that contribute to the fulfillment of the contract requirements by performing a commercially useful function.

As defined in MVC §999, a person or an entity is deemed to perform a "commercially useful function" if a person or entity does **all** of the following:

- Is responsible for the execution of a distinct element of the work of the contract.
- Carries out the obligation by actually performing, managing, or supervising the work involved.
- Performs work that is normal for its business services and functions.
- Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

A contractor, subcontractor, or supplier will not be considered to perform a commercially useful function if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of disabled veteran business enterprise participation.

DOCUMENTATION OF DISABLED VETERAN BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

STD. 840 (REV. 3/2007)

A. Designation Of Option – Check the appropriate box(es) to indicate the option(s) with which you choose to comply, complete the applicable sections and attach the required supporting documentation. You are advised to read all instructions carefully prior to completing this form. Remember that only California certified DVBEs who can provide related goods and/or services may be used to satisfy these program solicitation requirements. DVBEs must perform a commercially useful function. During contract performance, all requests for substituting DVBE subcontractors must be made in accordance with the provisions of California Code of Regulations, Title 2, §1896.64(c).

☐ **OPTION A – I commit to meeting the full DVBE Agreement participation requirement.**

Complete: STD. 840, Section A (check the box on this form) and
Bidder Declaration form GSPD-05-105 (located elsewhere in the solicitation)

☐ **OPTION B – I performed and documented a Good Faith Effort (GFE) in an attempt to obtain DVBE participation.**

Complete: STD. 840, Section A (check the box on this form),
STD. 840, Section B (for GFE Steps 1 & 2),
STD. 840 (REVERSE), Section C (for GFE Steps 3-5), and
Bidder Declaration form GSPD-05-105 (located elsewhere in the solicitation)

☐ **OPTION C – I submit a copy of my firm's "Notice of Approved DVBE Business Utilization Plan."**

Complete: STD. 840, Section A (check the box on this form) and
Bidder Declaration form GSPD-05-105 (located elsewhere in the solicitation)

B. Documentation of Good Faith Effort Steps 1 and 2 – Full information must be provided. Remember to carefully read all instructions prior to completing this form. Please refer to the Resources & Information page for detailed contact information.

STEP 1. Contact the Awarding Department (the contracting official, unless another contact is specified) to identify potential DVBE subcontractors, and document this contact below.

Date Contacted / /	Contact Name	Telephone Number () - ext.
Describe Result		

STEP 2. Contact all of the following and document your contacts as required: Other State and federal agencies and local organizations to identify potential DVBE subcontractors. **Attach screen print(s) of Web Results for verification.**

Other State Agency – Procurement Division, Office of Small Business and DVBE Services (OSDS)

PHONE CONTACT OR ONLINE SEARCH	Date / /	Telephone Number (916) 375-4940	Contact Name	☐ I contacted the OSDS for a list of California certified DVBEs.
	Date / /	Internet Address www.pd.dgs.ca.gov/smbus		☐ I searched the OSDS online database to identify California certified DVBEs.
Describe Result				

Federal Agency – U.S. Small Business Administration (SBA) online database

Date / /	Internet Address www.ccr.gov/	☐ I searched the federal online database for California DVBEs.
Describe Result		

Local DVBE Organizations – Contact at least one local DVBE organization – refer to the DVBE Resource Packet for a list of acceptable contacts. (www.pd.dgs.ca.gov/smbus – select "DVBE Resource Packet")

Date / /	Organization Name	Contact Name	Telephone Number and/or Internet Address () - www.
Describe Result			

Date / /	Organization Name	Contact Name	Telephone Number and/or Internet Address () - www.
Describe Result			

Go to Page 2, Section C to continue Good Faith Effort documentation ⇒

STATE OF CALIFORNIA – GENERAL SERVICES PROCUREMENT DIVISION

DOCUMENTATION OF DISABLED VETERAN BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

STD 840 (REV. 3/2007) (REVERSE)

C. Documentation of Good Faith Effort Steps 3, 4 and 5 – Full information must be provided.

STEP 3. Publish advertisements: At least two (2) advertisements: One (1) ad in an accepted trade paper; and one (1) ad in an accepted DVBE focus paper (please see the DVBE Resource Packet for a list of all accepted publications and a sample advertisement format); unless the paper is an approved dual purpose (fulfilling both trade and focus requirements), in which case one (1) ad is acceptable. **Document this step as required and remember to attach a copy of your advertisement(s).**

Focus Paper Name (list full name)	Contact Name	Telephone Number () -
Address		Date Ad Published / /
Trade Paper Name (list full name)	Contact Name	Telephone Number () -
Address		Date Ad Published / /

☐ I certify the ad was placed to reach both trade and focus audiences through this one publication.

Trade and Focus Paper Name (list full name)	Contact Name	Telephone Number () -
Address		Date Ad Published / /

STEP 4 & STEP 5. Document your completed contacts with (Step 4) and consideration of (Step 5), relevant DVBEs. Business reasons for non-selection must be explained. Attach additional pages to list all other DVBE contacts (you may use STD. 840A). Copies of all written invitations must be attached. Delivery confirmations should also be attached and submitted with the bid.

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			

☐ DVBE was selected and is listed on the GSPD-05-105 ☐ DVBE not selected for the following business reasons:

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			

☐ DVBE was selected and is listed on the GSPD-05-105 ☐ DVBE not selected for the following business reasons:

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			

☐ DVBE was selected and is listed on the GSPD-05-105 ☐ DVBE not selected for the following business reasons:

ATTACH ADDITIONAL PAGES (OR USE STD. 840A) TO LIST ALL OTHER DVBE CONTACTS

STATE OF CALIFORNIA – GENERAL SERVICES PROCUREMENT DIVISION
ADDITIONAL DISABLED VETERAN BUSINESS ENTERPRISE CONTACTS
STD. 840A (REV. 3/2007)

This document may be used as a continuation from Section C, STD. 840, Steps 4 & 5

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			
☐ DVBE was selected and is listed on the GSPD-05-105 ☐ DVBE not selected for the following business reasons:			

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			
☐ DVBE was selected and is listed on the GSPD-05-105 ☐ DVBE not selected for the following business reasons:			

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			
☐ DVBE was selected and is listed on the GSPD-05-105 ☐ DVBE not selected for the following business reasons:			

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			
☐ DVBE was selected and is listed on the GSPD-05-105 ☐ DVBE not selected for the following business reasons:			

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			
☐ DVBE was selected and is listed on the GSPD-05-105 ☐ DVBE not selected for the following business reasons:			

DVBE Program Requirements Supplier Checklist (Rev. 2-28-2005)

Please do not submit this checklist with your bid. It is provided for your use only. Checking every box of your elected compliance option does not guarantee that your bid will be deemed compliant.

☐ OPTION A: COMMITMENT TO DVBE AGREEMENT PARTICIPATION
☐ STD. 840 included with bid
☐ Designated the Commitment Option in Section A – Checked the first box of the form STD. 840
☐ Bidder Declaration form GSPD-05-105 completed and included with bid
☐ Proposed DVBE participation meets the 5% requirement (unless a different percentage is specified)
☐ OPTION B: GOOD FAITH EFFORT (GFE)
☐ STD. 840 included with bid
☐ Designated the GFE Option in Section A – checked the second box of the form STD. 840
☐ Bidder Declaration form GSPD-05-105 completed and included with bid (any participation obtained is identified on the form)
☐ (Step 1) Contacted the Awarding Department and listed the contact information and results
☐ (Step 2) Contacted Other State agency (Office of Small Business and DVBE Services) and listed the contact and results – if a DVBE search was conducted online, included a screen print with bid
☐ (Step 2) Searched the Federal U.S. Small Business Administration (SBA) using the Central Contractor Registration (CCR) on-line database, noted the results and included a screen print with bid
☐ (Step 2) Contacted Local DVBE Organization(s) and listed the contact and results – if a DVBE search was conducted online, included a screen print with bid
☐ (Step 3) Advertised – IF NOT WAIVED IN THE SOLICITATION • Listed full information for the advertisement(s) and publication(s) • At least 2 ads (one in a trade publication and one in a DVBE focus publication); OR 1 ad in one approved dual-purpose publication (for approved publications, see the Resource Packet at www.dgs.ca.gov/smbus) • Attached a copy of the advertisement(s) and affidavit(s) of publication • The advertisements were published at least 14 days prior to the bid due date (or lesser time as specified) • The advertisements included required contact information
☐ (Step 4) Listed on STD. 840 all DVBEs contacted that were not selected to perform as subcontractors • Attached copies of the invitations sent to DVBEs • Invitations included the required contact information • Attached copies of the delivery confirmations for invitations to DVBEs (e.g. mail receipts, fax confirmations, etc.)
☐ (Step 5) Listed the business reasons for non-selection of DVBEs contacted
☐ OPTION C: BUSINESS UTILIZATION PLAN (BUP)
☐ Prior to the bid due date – Submitted a BUP to DGS-PD and received approval
☐ STD. 840 included with bid
☐ Designated the BUP Option in Section A – Checked the third box of the form STD. 840
☐ Attached a copy of the BUP Approval letter from DGS-PD
☐ Bidder Declaration form GSPD-05-105 completed and included with bid

BIDDER DECLARATION

1. Prime bidder information (Review attached Bidder Declaration Instructions prior to completion of this form):

- a. Identify current California certification(s) (MB, SB, SB/NVSA, DVBE):** _____ **or None** ____ (If "None," go to Item #2)
- b. Will subcontractors be used for this contract? Yes** ____ **No** ____ (If yes, indicate the distinct element of work your firm will perform in this contract e.g., list the proposed products produced by your firm, state if your firm owns the transportation vehicles that will deliver the products to the State, identify which solicited services your firm will perform, etc.). Use additional sheets, as necessary.
- _____
- _____
- c. If you are a California certified DVBE:** (1) Are you a broker or agent? **Yes** ____ **No** ____
(2) If the contract includes equipment rental, does your company own at least 51% of the equipment provided in this contract (quantity and value)? **Yes** ____ **No** ____ **N/A** ____

2. If no subcontractors will be used, skip to certification below. Otherwise, list all subcontractors for this contract. (Attach additional pages if necessary):

Subcontractor Name, Contact Person, Phone Number & Fax Number	Subcontractor Address & Email Address	CA Certification (MB, SB, DVBE or None)	Work performed or goods provided for this contract	Corresponding % of bid price	Good Standing?	51% Rental?

CERTIFICATION: By signing the bid response, I certify under penalty of perjury that the information provided is true and correct.

BIDDER DECLARATION Instructions

All prime bidders (the firm submitting the bid) must complete the Bidder Declaration.

- 1.a. Identify all current certifications issued by the State of California. If the prime bidder has no California certification(s), check the line labeled "None" and proceed to Item #2. If the prime bidder possesses one or more of the following certifications, enter the applicable certification(s) on the line:

- Microbusiness (MB)
- Small Business (SB)
- Small Business Nonprofit Veteran Service Agency (SB/NVSA)
- Disabled Veteran Business Enterprise (DVBE)

- 1.b. Mark either "Yes" or "No" to identify whether subcontractors will be used for the contract. If the response is "No", proceed to Item #1.c. If "Yes", enter on the line the distinct element of work contained in the contract to be performed or the goods to be provided by the prime bidder. Do not include goods or services to be provided by subcontractors.

Bidders certified as MB, SB, SB/NVSA, and/or DVBE must provide a commercially useful function as defined in Military and Veterans Code Section 999(e)(2)(A) for DVBEs and Government Code Section 14837(d)(4)(A) for small/microbusinesses. For questions regarding commercially useful function determinations made in conjunction with certification approval, contact the Department of General Services, Procurement Division, Office of Small Business and DVBE Certification (OSDC), OSDC Certification and Compliance Unit via email at: osdchelp@dgs.ca.gov

Bids must propose that certified bidders provide a commercially useful function for the resulting contract or the bid will be deemed non-responsive and rejected by the State. For questions regarding the solicitation, contact the procurement official identified in the solicitation.

Note: A subcontractor is any person, firm, corporation, or organization contracting to perform part of the prime's contract.

- 1.c. This item is only to be completed by businesses certified by California as a DVBE.

(1) Declare whether the prime bidder is a broker or agent by marking either "Yes" or "No". The Military and Veterans Code Section 999.2 (b) defines "broker" or "agent" as a certified DVBE contractor or subcontractor that does not have title, possession, control, and risk of loss of materials, supplies, services, or equipment provided to an awarding department, unless one or more of the disabled veteran owners has at least 51-percent ownership of the quantity and value of the materials, supplies, services, and of each piece of equipment provided under the contract.

(2) If bidding rental equipment, mark either "Yes" or "No" to identify if the prime bidder owns at least 51% of the equipment provided (quantity and value). If **not** bidding rental equipment, mark "N/A" for "not applicable."

2. If no subcontractors are proposed, do not complete the table. Read the certification at the bottom of the form and complete "Page ____ of ____" on the form.

If subcontractors will be used, complete the table listing all subcontractors. If necessary, attach additional pages and complete the "Page ____ of ____" accordingly.

2. (continued) Column Labels

Subcontractor Name, Contact Person, Phone Number & Fax Number—List each element for all subcontractors.

Subcontractor Address & Email Address—Enter the address and if available, an Email address.

CA Certification (MB, SB, DVBE or None)—If the subcontractor possesses a current State of California certification(s), verify on the OSDC website (www.pd.dgs.ca.gov/smbus) that it is still valid and list all current certifications here. Otherwise, enter "None." [Note: A SB/NVSA should not be participating as a subcontractor]

Work performed or goods provided for this contract—Identify the distinct element of work contained in the contract to be performed or the goods to be provided by each subcontractor. Certified subcontractors must provide a commercially useful function for the contract. (See paragraph 1.b above for code citations regarding the definition of commercially useful function.) If a certified subcontractor is further subcontracting a greater portion of the work or goods provided for the resulting contract than would be expected by normal industry practices, attach a separate sheet of paper explaining the situation.

Corresponding % of bid price—Enter the corresponding percentage of the total bid price for the goods and/or services to be provided by each subcontractor. Do not enter a dollar amount.

Good Standing?—Provide a response for each subcontractor listed. Enter either "Yes" or "No" to indicate that the prime bidder has verified that the subcontractor(s) is in good standing for all of the following:

- Possesses valid license(s) for any license(s) or permits required by the solicitation or by law
- If a corporation, the company is qualified to do business in California and designated by the State of California Secretary of State to be in good standing
- Possesses valid State of California certification(s) if claiming MB, SB, and/or DVBE status
- Is **not** listed on the OSDC website as ineligible to transact business with the State

51% Rental?—This pertains to the applicability of rental equipment. Based on the following parameters, enter either "N/A" (not applicable), "Yes" or "No" for each subcontractor listed.

Enter "N/A" if the:

- Subcontractor is NOT a DVBE (regardless of whether or not rental equipment is provided by the subcontractor) or
- Subcontractor is NOT providing rental equipment (regardless of whether or not subcontractor is a DVBE)

Enter "Yes" if the subcontractor is a California certified DVBE providing rental equipment and the subcontractor owns at least 51% of the rental equipment (quantity and value) it will be providing for the contract.

Enter "No" if the subcontractor is a California certified DVBE providing rental equipment but the subcontractor does NOT own at least 51% of the rental equipment (quantity and value) it will be providing.

Read the certification at the bottom of the page and complete the "Page ____ of ____" accordingly.

ACCOUNTING & AUDIT GUIDELINES FOR CONTRACTS WITH CALTRANS

INTRODUCTION

The purpose of this brochure is to outline for you, a potential contractor with the California State Department of Transportation (Caltrans), the basic elements of an adequate accounting system, and the types and objectives of audits that will be performed in relation to your contract. In order to successfully compete for a contract and meet the audit requirements, a contractor (whether a prime or subcontractor) must have a system of record keeping and internal control. Although a specific cost accounting system is not required, a contractor needs a system which will assure compliance with the terms of the agreement. A preaward audit will be performed to assure you meet these requirements prior to contract execution. If your system is deficient, the contract will not be executed.

Caltrans reimburses, through your overhead rate, the costs attributable to establishing and maintaining a cost accounting system.

Staff time and other costs related to an audit performed of your contract are also normally reimbursed through your overhead rate.

ACCOUNTING SYSTEM

Contractors (whether a prime or subcontractor) planning to contract with Caltrans must have an accounting system which meets the following objectives:

- The ability to record and report financial data in accordance with generally accepted accounting principles.
- A system of record keeping to ensure that costs billed to Caltrans are:
 - a. Supported by adequate documentation.
 - b. In compliance with the terms of the contract and applicable Federal and State regulations specified in the contract.
- A system of record keeping which ideally includes the following:
 - a. A General Ledger
 - b. Job cost ledger
 - c. Labor distributions
 - d. Time records
 - e. Subsidiary journals

- f. Chart of accounts
- g. Financial statements
- The ability to accumulate and segregate reasonable, allocable (incurred solely for a project) and allowable (per terms of the contract) costs through the use of a cost accounting system. The following are some of the attributes which would ideally be found in such a system:
 - a. A chart of accounts which includes indirect and direct general ledger accounts. Indirect costs are not specifically identified to a project, for example, rent and/or utilities. Direct costs are specifically identified with a project, for example, drafting hours and/or design hours.
 - b. Segregation of costs by contract, category of cost and milestones (if applicable).
 - c. Proper recording of direct and indirect costs. For example, recording of labor costs should provide that non-project indirect hours be recorded on a timesheet and in the accounting records to an administration, vacation, sick leave or other indirect cost account/code. Direct project hours should be recorded on a timesheet and in the accounting records to a direct project cost account/code.
 - d. Consistent accounting treatment of costs in recording and reporting. For example, if travel expense is charged directly to a project, all travel incurred on any project should be considered a direct cost. As a result, project related travel, whether reimbursable per the contract terms or not, should not be included as an indirect cost.
 - e. Ability to trace from invoices submitted to Caltrans to job cost records and original, approved source documents, for example, timesheets, vendor invoices, canceled checks.
 - f. Ability to reconcile job cost records to the accounting records.
- Compliance with cost principles described in the Code of Federal Regulations 48, Federal Acquisition Regulations System (FAR), Chapter 1, Part 31. Information on how to obtain this regulation is described under "Audit Criteria" in this brochure.
- Procedures to monitor and adjust projected overhead rates to actual rates.
- Controls to ensure that written approval is obtained prior to any changes to the contract.
- Procedures to retain accounting records and source documentation as required by the terms of the contract.
- A system of internal control which provides reasonable assurance that assets are protected; financial data, records and statements are reliable; and errors and irregularities are promptly discovered, reported, and corrected. The elements of a system of internal control should include, but not be limited to, the following:
 - a. Separation of duties for proper protection of assets. Incompatible duties are those that place any person in a position to both perpetrate and conceal errors or irregularities in the normal course of business. For example, the person who

writes checks should be different from the person who reconciles bank statements and the person who purchases goods should be different from the person who receives goods.

- b. Limiting access to assets to only authorized personnel who require these assets in the performance of their assigned duties. For example, blank check stock should be locked in a safe when not in use.
- c. Authorization and record keeping procedures which provide effective accounting control over assets, liabilities, revenues, and expenditures.
- d. A system of practices to be followed in the performance of duties and functions. Such a system normally includes policies and procedures which establish the purpose and requirements of the accounting system. For example, timekeeping practices should ideally provide for the following:
 - Timesheets be prepared, signed, and dated by all employees.
 - Timesheets be completed in non-erasable ink.
 - Timesheet corrections be crossed-out and initialed by the employee.
 - Timesheets be signed by a supervisor as reviewed and retained on file as required by the contract.
- e. Personnel with skills and training commensurate with their responsibilities.
- f. A system of internal review. For example, bank reconciliations and travel expense claims should be reviewed approved and signed by a supervisor.

AUDITS

Contractors, whether a prime or subcontractor, performing under a negotiated contract with Caltrans are subject to the following audits:

PREAWARD AUDITS

Prior to the award of a contract, the Caltrans Audits Office will conduct a preaward evaluation to determine if the contractor's accounting system is adequate to accumulate and segregate costs as detailed in the previous section and to determine if the proposed costs are reasonable. It alerts both the contractor and Caltrans management to problems relative to the contractor's cost proposal and cost accounting system. Due to time constraints in the award process, your cooperation in scheduling the preaward audit with short notice will expedite the execution of your contract.

INTERIM AUDITS

Interim audits are performed on an as needed basis. During the preaward audit, if it is determined that the contractor's accounting system is new or minor deficiencies are noted, an interim audit is scheduled to determine that the system is functioning adequately to ensure that billed costs are supported and that any deficiencies were corrected. An interim audit may be requested by the

contract administrator or by Caltrans management to address concerns during the course of the contract. Also, an audit manager may initiate an interim audit of a long duration contract to ensure that costs reimbursed to date are allowable.

POST AUDITS

Post audits of contracts are performed routinely after project completion. Post audits are performed to determine whether the costs claimed are allowable, allocable, reasonable, and in compliance with the Federal and State laws and regulations as well as the fiscal provisions stipulated in the contract. The examination includes reviews of applicable laws and regulations, the contract requirements and the contractor's system of internal controls. Audit tests of the contractor's accounting records and other auditing procedures considered necessary will also be made. Applications of all audit procedures would also be governed by the individual contract under audit. Unsupported or unallowable costs are normally the result of weaknesses in the accounting system and will be reimbursed to Caltrans.

AUDIT CRITERIA

For specific information regarding basic cost accounting systems and applicable State and Federal regulations, please see the following:

Code of Federal Regulations 48, Federal Acquisition Regulations System, Chapter 1, Part 31

This regulation contains cost principles and procedures for the pricing of contracts/subcontracts and the determination, negotiation, or allowance of costs. Contact:

Superintendent of Documents
Government Printing Office
Washington, DC 20402

(202) 783-3238

California State Administrative Manual

A reference source for statewide policies, procedures, regulations, and information. Contact:

Documents and Publications
Office of Procurement
Department of General Services
P.O. Box 1015
North Highlands, CA 95660

(916) 973-3700

For review of the above references, contact your local library or the California State Library.

California State Library/Library and Courts Building
914 Capitol Mall
P. O. Box 942837
Sacramento, CA 94237-0001
Information: (916) 654-0261

For assistance in establishing an accounting system which will meet the objectives outlined in this brochure, you should contact an accountant and/or bookkeeper who is familiar with cost accounting systems.

Caltrans is an affirmative action employer. Equal opportunity is offered to all regardless of race, color, creed, national origin, ancestry, sex, marital status, disability, religious or political affiliation, age or sexual orientation. Contractors that contract with Caltrans are responsible for taking necessary and reasonable steps to achieve these same goals.

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ATTACHMENT # 11
Sample Consulting Services Agreement - State

AGREEMENT NUMBER 75A0300
REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

Department of Transportation

CONTRACTOR'S NAME

TBD

Note to Bidders:

The following __ pages represent a sample of the Agreement that will be awarded, if any, from this RFP. Please review it carefully and present any questions in writing to the contact identified for this RFP.

2. The term of this **TBD** through **TBD** Agreement is:

3. The maximum amount **TBD** of this Agreement is:

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	4 Pages
Exhibit B – Budget Detail and Payment Provisions	5 Pages
Exhibit C* – General Terms and Conditions (GTC 307)	
Exhibit D - Special Terms and Conditions	9 Pages
Exhibit E – Additional Provisions	1 Page
Attachment 1 - Technical Proposal	Pages
Attachment 2 - Cost Proposal	Pages
Attachment 3 Contractor Certification Clauses (CCC 307)	Pages
Attachment 4 Bidder Declaration, GSPD-05-105	Pages

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

TBD

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

STATE OF CALIFORNIA

AGENCY NAME

Department of Transportation

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

*California Department of General
Services Use Only*

☐ Exempt per:

EXHIBIT A
Consulting Services Agreement (State)

SCOPE OF WORK

1. The work to be performed under this Agreement shall be in accordance with the Contractor's Technical Proposal entitled (NAME) dated (DATE), **Attachment 1**, the revision thereto dated (DATE), the Contractor's Cost Proposal dated (DATE), **Attachment 2**, and the Scope of Work in this Agreement. The proposals and revision are attached hereto and incorporated by reference. If there is any conflict between the Contractor's proposals and this Agreement, this Agreement shall take precedence.
2. The services shall be performed at **all areas of the State where State-supported intercity passenger rail service and connecting motorcoach service is available.**
3. This Agreement will commence on the start date **TBD** as presented herein or upon approval by DGS, whichever is later and no work shall begin before that time. This Agreement is of no effect unless approved by DGS. The Contractor shall not receive payment for work performed prior to approval of the Agreement and before receipt of notice to proceed by the Contract Manager. This Agreement shall expire on **TBD**. The services shall be provided during normal working hours, Monday through Friday, except holidays. The parties may amend this agreement as permitted by law.
4. All inquiries during the term of this Agreement will be directed to the project representatives listed below:

Department of Transportation	Contractor:
Section/Unit:	Section/Unit:
Contract Manager:	Project Manager:
Address:	Address:
Phone:	Phone:
Fax:	Fax:

5. Detailed description of work to be performed and duties of all parties:
 - A. **Advertising** - The Contractor will perform the following activities to promote ridership on State-supported Amtrak services:

EXHIBIT A
Consulting Services Agreement (State)

1. Work with Department staff and Amtrak as a team to develop strategies to promote and enhance ridership on Amtrak's Pacific Surfliner and San Joaquin trains through an overall marketing plan for these services.
2. Plan, develop, create, produce and implement advertising programs designed to increase awareness, ridership and revenue of rail and connecting Amtrak Thruway motorcoach services.
3. Work with Joint Powers Agencies established pursuant to Senate Bill 457 (1996), Chapter 263, Statutes of 1996, as required.
4. Provide assistance on long range marketing plans and specialized programs as requested. The agency will interact with Department staff and other marketing contractors to provide integration of advertising plans.
5. Assist the Department in overall marketing analysis, strategy development and positioning of the State-supported rail passenger service.
6. Develop media plans and purchase various media that may include (but is not limited to) television, radio, print, outdoor, internet and direct mail.
7. Develop and coordinate promotions in conjunction with media buys.
8. Create, produce and place advertising.
9. Plan and execute joint advertising and promotional campaigns with outside agencies.
10. Analyze proposed expenditures of non-contract advertising resources.

B. Public Relations Activities – The Contractor will perform the following activities to promote ridership on State-supported Amtrak services:

1. Work with Department staff and Amtrak as a team to develop strategies to promote and enhance ridership on Amtrak's Pacific Surfliner and San Joaquin trains through an overall marketing plan for these services.
2. Develop and conduct promotional programs designed to increase awareness and ridership of rail and connecting motorcoach services. The Contractor shall organize and direct special events such as press conferences, station dedications, and service inauguration celebrations.

EXHIBIT A
Consulting Services Agreement (State)

3. Write and distribute news releases to the media. Maintain publicity/media lists and other specialized lists, and handle large mailings.
4. Write, produce and distribute informational literature to inform the public of rail services in California, including brochures.
5. Write, produce and distribute 40,000 copies of each edition of the Rail Program's quarterly newsletter, "Making Tracks". "Making Tracks" is distributed at Amtrak stations throughout California and mailed to a list of interested parties.
6. Survey California fairs, expositions and travel fair/trade shows and create a roster of potential outreach events in which the Division of Rail could participate. Make recommendations to the Division of Rail staff about the best allocation of resources among the events.
7. Design and develop displays for use at fairs and special events, to keep the public informed of new rail service and the advantages of rail travel. Write, design and produce packets of leave-behind materials.

C. Rail Safety Activities – The Contractor will be responsible for implementation of a statewide Rail Safety Awareness Program designed to increase awareness of rail safety issues among students and the general public. The Contractor will perform the following activities to promote rail safety in California:

1. Coordinate a major Rail Safety Awareness event each year in conjunction with Operation Lifesaver Day and Safety Awareness Week. These events are usually held in May.
2. Coordinate rail safety awareness outreach programs at schools along State-supported rail corridors.
3. Duplicate and distribute safety videos, as well as produce and/or distribute collateral rail safety materials deemed necessary for the program
4. Design and develop rail safety display materials for use at schools, fairs and special events.
5. Perform ongoing press/media relations and accident response, as needed. Accident response will be conducted in close coordination with Amtrak's Emergency Response Team. **Amtrak will take the lead in all accident response situations.**

EXHIBIT A
Consulting Services Agreement (State)

6. Submit rail safety material to major media which may include video (VCR's and PSA's), safety stories, photos, and interviews.
7. Develop cooperative rail safety advertising and sponsorships.

D. Proposed New Services/Events

In addition to the activities listed above for the two (2) intercity services, the Contractor will work with the Department and Amtrak to develop advertising and/or public relations campaigns to introduce and promote the following new services anticipated to take place during the contract period:

Pacific Surfliner

- Twelfth roundtrip train between San Diego and Los Angeles, and one (1) additional roundtrip from Santa Barbara to San Luis Obispo.

San Joaquin

- New station facilities at Stockton and Madera.

EXHIBIT B
Consulting Services Agreement (State)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon approval of services by the Department's Contract Manager, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates in **Attachment 2**. Incomplete or disputed invoices shall be returned to the Contractor, unpaid, for correction.
- B. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

Department of Transportation
Division of Rail, MS 74
Attention: **Contract Manager's Name**
P.O. Box 942874
Sacramento, CA 95814

- C. Invoices shall be itemized in accordance with the Cost Proposal, **Attachment 2**, and shall include this Agreement Number, dates of services, Invoices must also include supporting documentation for materials, and supplies.

2. Budget Contingency Clause

- A. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional or legislative appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
- B. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or the State Legislature that may affect the provisions, terms or funding of this Agreement in any manner.

EXHIBIT B
Consulting Services Agreement (State)

- C. It is mutually agreed that if the Congress or the State Legislature does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- D. The State has the option to terminate the Agreement under the 30-day termination clause or to amend the Agreement to reflect any reduction of funds.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. Rates

Rates for these services may be found on **Attachment 2** of this document.

5. Allowable Costs and Payments

- A. The method of payment for this Agreement will be based on actual costs plus a fixed fee. The State will reimburse the Contractor for actual costs (including labor costs, employee benefits, travel, overhead and other direct costs) incurred by the Contractor in performance of the work, exclusive of any fixed fee, not to exceed the amount of **(dollar amount)**. Actual costs shall not exceed the estimated wage rates and other estimated costs set forth in the Contractor's cost proposal without prior written agreement between the State and the Contractor.
- B. In addition to the actual costs, the State will pay the Contractor a fixed fee of **(dollar amount)**. The fixed fee is nonadjustable for the term of the Agreement except in the event of a significant change in the scope of work and such adjustment is made by Agreement amendment.
- C. Transportation and subsistence costs shall not exceed rates authorized to be paid non-represented State employees under current State Department of Personnel Administration rules.
- D. Progress payments will be made monthly in arrears based on services provided and actual costs incurred. Not less than 10 percent of the Agreement amount shall be withheld pending final completion of the Agreement, **excluding media cost and media commission**. The retention amount will be paid to the

EXHIBIT B
Consulting Services Agreement (State)

Contractor after the State has evaluated the Contractor's performance and made a determination that all Agreement requirements have been satisfactorily fulfilled.

- D. The Contractor shall not commence performance of work or services until this Agreement have been approved by the State. No payment will be made prior to approval nor for any work performed prior to approval of this Agreement.
- E. The total amount payable by the State, including the fixed fee, shall not exceed **\$9,000,000.00.**

6. Cost Principles

- A. The Contractor agrees that the Title 48 Code of Federal Regulations (CFR) Part 31, Contract Cost Principles and Procedures (48 CFR 31), shall be used to determine the allowable individual items of cost.
- B. The Contractor also agrees to comply with Federal procedures in accordance with Title 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (49 CFR 18).
- C. Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under 48 CFR 31 or 49 CFR 18 are subject to repayment by Contractor to State.
- D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Section.

7. Failure To Pay

Should Cities or Counties fail to pay moneys due the State within 30 days of demand or within such other period as may be agreed between the parties hereto, State, acting through the State Controller, may withhold an equal amount from future apportionments due Cities or Counties from the Highway Users Tax Fund.

8. Excise Tax

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

EXHIBIT B
Consulting Services Agreement (State)

9. Materials/Supplies

The Contractor will be reimbursed for the actual cost of materials/supplies purchased to be consumed or installed at the work site in performance of the Agreement (including applicable sales tax), without additional allowance for markup. Contractor costs associated with the purchase and installation of materials/supplies are considered as a component of the Contractor's hourly rate for services that include wages, overhead, general and administrative expenses and profit. Cost of materials/supplies are to be substantiated by a copy of the appropriately signed invoice verifying the actual cost and delivery of the replaced components to the Department.

10. Equipment Purchase (By Contractor)

- A. Prior authorization in writing by the Contract Manager shall be required before the Contractor enters into any non-budgeted purchase order or subcontract exceeding \$500 for supplies, equipment, or consultant services. The Contractor shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in the Contractor's Cost Proposal and exceeding \$500, with prior authorization by the Contract Manager, three competitive quotations must be submitted with the request or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this Agreement is subject to the following: The Contractor shall maintain an inventory record for each piece of non-expendable equipment purchased or built with funds provided under the terms of this Agreement. The inventory record of each piece of such equipment shall include the date acquired, total cost, serial number, model identification (on purchased equipment), and any other information or description necessary to identify said equipment. Non-expendable equipment so inventoried are those items of equipment that have a normal life expectancy of one year or more and an approximate unit price of \$5,000 or more. In addition, theft-sensitive items of equipment costing less than \$5,000 shall be inventoried. A copy of the inventory record must be submitted to the State on request by the State.
- D. At the conclusion of the Agreement or if the Agreement is terminated, the Contractor may either keep the equipment and credit the State in an amount equal to its fair market value or sell such equipment at the best price obtainable, at a public or private sale, in accordance with established State procedures, and credit the State in an amount equal to the sales price. If the Contractor elects to keep the equipment, fair market value shall be determined, at the Contractor's expense, on the basis of a competent, independent appraisal of such equipment.

EXHIBIT B
Consulting Services Agreement (State)

Appraisals shall be obtained from an appraiser mutually agreeable to the State and Contractor. If it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the State.

- E. CFR 49, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.
- F. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this article.

EXHIBIT D
Consulting Services Agreement (State)

SPECIAL TERMS AND CONDITIONS

1. The **Contractor's Certification Clause, CCC 307** is attached hereto, **Attachment 3** and made a part of this Agreement.

2. **Settlement of Disputes**

- A. Any dispute concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by the Department's Contract Officer, who may consider any written or verbal evidence submitted by the Contractor. The decision of the Contract Officer, issued in writing, shall be the final decision of the Department.
- B. Neither the pendency of a dispute nor its consideration by the Contract Officer will excuse the Contractor from full and timely performance in accordance with the terms of the Agreement.

3. **Evaluation of Contractor**

Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4), and maintained in the Office file, and the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

4. **Subcontractors**

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his/her responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.
- B. The contractor shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted.

EXHIBIT D
Consulting Services Agreement (State)

- C. The contractor shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted except for subcontractors listed on the Bidder Declaration, GSPD-05-105, **Attachment 4**.
- D. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to subcontractors.
- E. Any substitution of subcontractors must be approved in writing by the State's Contract Manager in advance of assigning work to a substitute subcontractor.

5. Contractor's Reports and/or Meetings

- A. The Contractor shall submit progress reports at least once a month to allow the Contract Manager to determine if the Contractor is performing to expectations or is on schedule, to provide communication of interim findings and to afford occasions for airing difficulties or special problems encountered so that remedies can be developed.
- B. The Contractor shall meet with the Contract Manager as needed to discuss progress on the Agreement.
- C. Prior to completion of the Agreement, the Contractor shall hold a final meeting with the Contract Manager to present findings, conclusions and recommendations and shall submit a comprehensive final report on the project.
- D. Any document or written report prepared as a requirement of this Contract shall contain, in a separate section preceding the main body of the document, a list of all Contracts and subcontracts (including dollar amounts) relating to the preparation of those documents or reports if the combined costs for work by non-employees of the Contractor exceed \$5,000.

6. Publication

- A. The Contractor shall not copyright the report required by this Contract.
- B. The report required by this Agreement shall become the property of the State, and all publication rights are reserved to the State.
- C. The title pages of the report shall bear an appropriate inscription acknowledging the sources of funds used to produce the report.

EXHIBIT D
Consulting Services Agreement (State)

- D. The report shall contain the following disclaimer in a separate section preceding the main body of the document:

"The contents of this report reflect the views of the author who is responsible for the facts and accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the State of California or the Federal Highway Administration. This report does not constitute a standard, specification, or regulation."

7. Confidentiality Of Data

- A. All financial, statistical, personal, technical, or other data and information relative to the Department's operations, which is designated confidential by the Department and made available to the Consultant in order to carry out this Agreement, shall be protected by the Consultant from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion or public hearing held by the Department relating to this Agreement shall not authorize the Consultant to further disclose such information or disseminate the same on any other occasion.
- C. The Consultant shall not comment publicly to the press or any other media regarding this Agreement or the Department's actions on the same, except to the Department's staff, Consultant's own personnel involved in the performance of this Agreement, at public hearings, or in response to questions from a Legislative committee.
- D. The Consultant shall not issue any news release or public relations item of any nature whatsoever regarding work performed or to be performed under this Agreement without prior review of the contents thereof by the Department and receipt of the Department's written permission.
- E. All information related to the construction estimate is confidential and shall not be disclosed by the Consultant to any entity, other than the Department.
- F. Any subcontract, entered into as a result of this Agreement, shall contain all of the provisions of this clause.

8. State-Owned Data - Integrity and Security

- A. Contractor shall comply with the following requirements to ensure the preservation, security, and integrity of State-owned data on portable computing devices and portable electronic storage media:
 - 1) Encrypt all State-owned data stored on portable computing devices and portable electronic storage media using government-certified Advanced Encryption Standard (AES) cipher algorithm with a 256-bit or 128-bit encryption key to protect California Department of Transportation (Department) data stored on every sector of a hard drive, including temp files, cached data, hibernation files,

EXHIBIT D
Consulting Services Agreement (State)

and even unused disk space.

Data encryption shall use cryptographic technology that has been tested and approved against exacting standards, such as FIPS 140-2 Security Requirements for Cryptographic Modules.

- 2) Encrypt, as described above, all State-owned data transmitted from one computing device or storage medium to another.
 - 3) Maintain confidentiality of all State-owned data by limiting data sharing to those individuals contracted to provide services on behalf of the State, and limit use of State information assets for State purposes only.
 - 4) Install and maintain current anti-virus software, security patches, and upgrades on all computing devices used during the course of the Agreement.
 - 5) Notify the Contract Manager immediately of any actual or attempted violations of security of State-owned data, including lost or stolen computing devices, files, or portable electronic storage media containing State-owned data.
 - 6) Advise the owner of the State-owned data, the agency Information Security Officer, and the agency Chief Information Officer of vulnerabilities that may present a threat to the security of State-owned data and of specific means of protecting that State-owned data.
- B. Contractor shall use the State-owned data only for State purposes under this Agreement.
- C. Contractor shall not transfer State-owned data to any computing system, mobile device, or desktop computer without first establishing the specifications for information integrity and security as established for the original data file(s). (State Administrative Manual (SAM) section 5335.1)

9. Termination

- A. The Department of Transportation reserves the right to terminate this Agreement without cause upon thirty (30) days written notice to the Contractor or immediately in the event of material breach by the Contractor.
- B. In the event that the total contract amount is expended prior to the expiration date, the State may, at its discretion, terminate this contract with 30 days notice to contractor.

10. Disabled Veterans Business Enterprise (DVBE) Participation (With Goals)

- A. The Contractor has complied with the requirements of Public Contract Code Section 10115 et seq. DVBE goals achieved are expressed as a percentage of the

EXHIBIT D
Consulting Services Agreement (State)

estimated dollar value of this Agreement, and are identified on the Bidder Declaration, GSPD-05-105, and are attached to and made a part hereof.

- B. The following goals are the Contractor's commitment set forth in this Agreement based upon the estimated total dollar amount to be expended*

(6 %) of work for DVBE(s)

*If this Agreement is amended and the additional work can be included in the sub-contracted work, the goals may be amended to reflect this change. A revised Bidder Declaration form, GSPD-05-105 must be attached to and made a part of the amended agreement.

- C. Substitutions of DVBEs. Contractor must use the DVBE subcontractors and/or suppliers contained in the solicitation response to the State, unless a substitution has been preapproved in writing by the Caltrans Contract Manager. No substitutions are to be made without receipt of prior written approval from the Contract Manager. Failure to obtain approval of substitute contractors before work is performed, supplies are delivered or services are rendered may result in payment being denied by Caltrans.
- D. At a minimum, the Contractor's substitution request must include:
- 1) a written explanation of the substitution reason; and if applicable, the Contractor must also include the reason a non-DVBE subcontractor is proposed for use;
 - 2) the Contractor must also include a written description of the substitute business enterprise; include their business status as a sole proprietorship, partnership, corporation or other entity, and the firm's DVBE certification status, if any;
 - 3) a written notice detailing a clearly defined portion of the work identified both as a task and as a percentage share/dollar amount of the overall Agreement that the substitute firm will perform.
- E. **Prior** to the approval of the prime Contractor's substitution request, the **contract manager** must give written notice to subcontractor being substituted by the prime Contractor. A copy of the notice sent by the contract manager must be sent to the Contracts office. The notice must:
- 1) give the reason the prime Contractor is requesting substitution of the listed subcontractor;
 - 2) give the listed subcontractor five working days within which to submit written objections to the Contracts Office and copies to the contract manager;
 - 3) notify the subcontractor that if a written objection is not received or received past the due date, such failure will constitute consent to the substitution; and

EXHIBIT D
Consulting Services Agreement (State)

- 4) the notice shall be served by certified or registered mail to the last known address of the listed subcontractor.
- F. If written objections are filed by the listed Contractor, the Contract's Office, will render a written decision. The Contracts Office shall give written notice of at least five working days to the listed subcontractor of a hearing by the Department on the prime Contractor's request for substitution.
- G. Caltrans may consent to the substitution of another subcontractor in any of the following situations:
- 1) When the subcontractor listed in the solicitation bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written Agreement, when that written Agreement based upon the general terms, conditions, plans and specifications for the project involved or the terms of that subcontractor's written bid is presented to the subcontractor by the prime Contractor.
 - 2) When the listed subcontractor becomes bankrupt or insolvent, or goes out of business.
 - 3) When the listed subcontractor fails or refuses to perform his or her subcontract.
 - 4) When the listed subcontractor fails or refuses to meet the bond requirements, if any of the prime Contractor.
 - 5) When the prime Contractor demonstrates to the Department, or its duly authorized officer, that the name of the subcontractor was listed as the result of an inadvertent clerical error.
 - 6) When the listed subcontractor is not licensed pursuant to any applicable licensing requirement of any regulatory agency of the State of California.
 - 7) When the Department or the Contract Manager determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, Agreement requirements or that the subcontractor is substantially delaying or disrupting the progress of the work.
- H. The request for substitution and the state's approval or disapproval is not to be construed as an excuse for non-compliance with any other provision of law, including but not limited to the subletting and subcontracting fair practices act (Section 4100 et seq. Of the Public Contract Code) or any other Agreement requirements relating to the substitution of subcontractors. Failure to adhere to the DVBE participation in the performance of the Agreement may be cause for Agreement termination and recovery of damages under the rights and remedies due the state.
- I. Any DVBE firm acting/working under subcontract must be responsible for providing materials, supplies, equipment or services and must carry out its responsibility by

EXHIBIT D
Consulting Services Agreement (State)

actually performing, managing, or supervising the work involved that is normal for its business services and functions.

- J. The Contractor shall maintain records of all subcontracts entered into with DVBE subcontractors including records of materials purchased from DVBE suppliers. Such records shall show the name and address of each DVBE subcontractor or supplier and the total dollar amount paid to each one. Upon completion of the Agreement, a summary of these records shall be prepared and certified correct by the Contractor or his authorized representative and the summary shall be furnished to the State's Contract Manager.

11. Retention of Records/Audits

- A. For the purpose of determining compliance with Public Contract Code Section 10115, et. seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et. seq., when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code Section 8546.7, the Contractor, subcontractors and the State shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under the Agreement. The State, the State Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the Contractor that are pertinent to the Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.
- B. Any subcontract entered into as a result of this Agreement shall contain all the provisions of this article.

12. Prohibition From Bidding

This Agreement is subject to the provisions of Section 10365.5 of the Public Contract Code which states: "No contractor who has been awarded a consulting services Agreement may submit a bid for, nor be awarded a Agreement for, the provision of services, goods and supplies, or any other related action which is required, suggested or otherwise deemed appropriate in the end product of the original consulting services Agreement."

EXHIBIT D
Consulting Services Agreement (State)

13. Consultant Contractor's Rights and Obligations

The Contractor is advised that the provisions of Public Contract Code Sections 10335 through 10381 pertaining to the duties, obligations and rights of a consultant service Contractor are applicable to this Agreement.

14. Audit Review Procedures

- A. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement shall be reviewed by the Chairperson of the Audit Review Committee (ARC). The ARC will consist of the Deputy Director, Audits & Investigations (Chairperson); Deputy Director of the functional Program area; the Chief Counsel, Legal Division, or their designated alternates; and if the Department chooses, two representatives of the Department's choosing, from private industry. The two representatives from private industry will be advisory in nature only and will not have voting rights. Additional members or their alternates may serve on the ARC.
- B. Not later than thirty (30) days after issuance of the final audit report, the Contractor may request a review by the ARC of unresolved audit issues. The request for review will be submitted in writing to the Chairperson of the ARC. The request must contain detailed information of the factors involved in the dispute as well as justifications for reversal. A meeting by the ARC will be scheduled if the Chairperson concurs that further review is warranted. After the meeting, the ARC will make recommendations to the appropriate Chief Deputy Director. The Chief Deputy Director will make the final decision for the Department. The final decision will be made within three (3) months of receipt of the notification of dispute.
- C. Neither the pendency of a dispute nor its consideration by Caltrans will excuse the Contractor from full and timely performance, in accordance with the terms of this Agreement.

15. Union Organizing

- A. Contractor, by signing this Agreement, hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this Agreement.
- B. Contractor will not assist, promote, deter union organizing by employees performing work on a State service Agreement, including a public works Agreement. No State funds received under this Agreement will be used to assist, promote, or deter union organizing.

EXHIBIT D
Consulting Services Agreement (State)

- C. Contractor will not, for any business conducted under this Agreement, use any State property to hold meetings with employees or supervisors, if the purpose of such meeting is to assist, promote, or deter union organizing, unless the State property is equally available to the general public for holding meetings.
- D. If Contractor incurs costs or makes expenditures to assist, promote, or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from State funds has been sought for these costs and that Contractor shall provide those records to the Attorney General upon request.

EXHIBIT E
Consulting Services Agreement (State)

ADDITIONAL PROVISIONS

1. Liability Insurance Provisions

- A. Contractor is responsible for any deductible or self-insured retention contained within the insurance program.
- B. The Insurance policy shall contain a provision that states that coverage will not be cancelled without 30 days prior written notice to the State.
- C. Coverage must be in force for the complete term of this Agreement. If insurance expires during the term of this Agreement, a new certificate must be received by the State at least ten (10) days prior to the expiration of this insurance. This new insurance must still meet the terms of this Agreement.
- D. In the event contractor fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event, subject to the provisions of the Agreement.
- E. Any insurance required to be carried shall be primary, and not excess, to any other insurance carried by the State.
- F. The State will not be responsible for any premiums or assessments on the policy.

1) Commercial General Liability

- a) Contractor shall maintain general liability with limits of not less than **\$1,000,000** per occurrence for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed under an insured Agreement. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the contractor's limit of liability.
- b) The State of California, its officers, agents, employees, and servants shall be included as additional insured, but only with respect to work performed for the State of California under this Agreement. The insurance carrier should provide an endorsement for the additional insured statement.

2) Workers' Compensation/Employer's Liability

Contractor shall maintain statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Agreement, including special coverage extensions where applicable. Employer's liability limits of **\$1,000,000** per occurrence shall be required.