

Michigan Department of Transportation

**REQUEST FOR QUALIFICATIONS
FOR
CONSTRUCTION SERVICES**

Revised 8/29/2012

LOCATION:

The initial project locations in 2013 will be construction projects in the Metro Region, but it is planned that this will apply and be effective in all Michigan Department of Transportation (MDOT) regions across the state.

SERVICE DESCRIPTION:

To develop a prequalified application pool of candidates for MDOT's Dispute Review Board (DRB) process.

BACKGROUND INFORMATION:

MDOT is proposing to implement the use of a DRB process on select highway construction projects beginning in 2013. The DRB process has been successfully used by other state DOT's throughout the country to efficiently and effectively address contractor claims. MDOT's existing claims process is working, but MDOT would like to evaluate the DRB process to reduce the amount of time, resources, and costs that it currently takes to arrive at a final claim disposition beyond the project level.

DETAILED DESCRIPTION:

A contractor claim can have up to three levels of review using MDOT's current claim process. The first review is by the Engineer at the project level. If requested by the contractor, the second review is the Region Office Review (ROR) that typically takes place after a project has been completed or all work related to a particular claim is done so all issues can be addressed at one time. The panel for a ROR is generally comprised of three (3) experienced MDOT staff members from within the MDOT Region where the project is located. After the ROR, the contractor can request a Central Office Review (COR) be held in Lansing with three (3) higher level MDOT staff members from various parts of the state. The DRB process would refine the current process by eliminating the ROR and COR. Unlike the ROR and COR, the DRB process would be initiated shortly after the Engineer's denial of the claim so the entitlement of a claim can be addressed in a timelier manner. These changes are expected to reduce the amount of time that it currently takes to arrive at a final claim disposition.

It is expected that the DRB process will reduce the amount of MDOT staff time and costs that are required to reach a final claim disposition beyond the project level. The primary reason for the savings in MDOT staff time is that the three member ROR and COR panels would be replaced by an independent panel of three experts in the transportation construction field. Two of the DRB panel members would be chosen and agreed upon by both parties from a pool of prequalified candidates. Whereas, the third member would be selected by the two panel members from the same prequalified pool and act as the chair of the DRB panel. The cost for the

DRB panel would be shared equally between MDOT and the contractor. The lump sum compensation rates would be considered full and complete compensation to the DRB panel members for all expenses (preparatory time, meeting time, travel, lodging, paper copies, etc.) related to hearings or meetings.

Anticipated Key Dates:

- August 6, 2012 Initial Date Candidate Qualifications will be Accepted
- September 17, 2012 Electronic Notification Provided to Candidates
- ~~Late~~ October 30, 2012 Dispute Review Board Foundation Training Conducted in Lansing, MI (~~one-half~~ all day training period)
- November 1, 2012 Candidates Available for Panel Selection

Applicants may submit qualifications to become DRB panel candidates any time after August 6, 2012. This request for qualifications does not have a closure date; therefore applications may be submitted throughout the year after the initial acceptance date.

PRIMARY PREQUALIFICATION CLASSIFICATION:

Not Applicable

MDOT PROJECT MANAGER:

R. Jason Clark, P.E.
8885 Ricks Rd
PO Box 30049
Lansing, MI 48909
517-322-6630
517-322-5664
ClarkJ25@michigan.gov

Potential and approved candidates may be contacted by the MDOT Project Manager while being evaluated for inclusion in the applicant pool to clarify submitted information.

CANDIDATE APPLICATION INFORMATION:

MDOT is looking for DRB panel candidates with substantial experience in or directly related to highway and bridge construction projects with or on behalf of federal, state, or local government agencies, particularly MDOT.

Experience shall be a minimum of 10 years in active involvement, supervision, or management of public agency highway and bridge construction contracts with a preferable emphasis in resolution of disputes arising out of said contracts. In order to be approved as a potential DRB panel candidate, a person must have attended the Dispute Resolution Board Foundation's (DRBF) Administration and Practices Workshop (<http://drb.org/Training.htm>) or must attend a session of this training to be facilitated by MDOT ~~in late on~~ October 30, 2012. Please note that a registration fee (final amount to be determined) will be charged to cover a portion of the training costs. Applicants that miss the scheduled training in Michigan are required to obtain the training

by contacting the DRBF directly (<http://www.drb.org/>). Applicants that do not have nor obtain the required training will not be approved to serve as a DRB candidate.

The DRB application and the contract (required if selected to serve as a DRB panel member); both contain Conflict of Interest language and requirements. DRB applicants will be required to provide a conflict of interest statement and a disclosure statement describing past, present, anticipated, and planned relationships, including indirect relationships through their present employer, to other parties involved in a construction project if selected to serve as an actual DRB panel member. Disclosure of any close professional or personal relationships with all key members of the project is also required. This disclosure and conflict of interest information will be required prior to being approved to serve on a DRB panel for any construction project.

All applicants must complete and submit the Candidate Application document and state their specific training and experience that qualifies them to serve as a DRB candidate. A current resume must be submitted in addition to the application. **Candidates are to submit their applications either electronically or in hard copy format to the Project Manager.** Electronic confirmation of receipt will be provided. The Candidate Application document is provided with this posting.

If you are approved to be a DRB panel candidate; your name, phone number, email address, and a brief qualification description will be included on the MDOT approved DRB panel candidate website for all interested parties to view, unless you specifically request that it be provided by request only.

If your application is denied you may contact the Construction Contracts Engineer directly and determine why your application was denied. Appeals of denied applications will be reviewed and processed by the Bureau Director of Field Services. The Construction Contracts Engineer will facilitate the appeal request and process.

Questions are to be directed to the Project Manager.

GENERAL INFORMATION:

The Services described herein are financed with public funds. The candidate shall comply with all applicable Federal and State laws, rules, and regulations.

If selected to serve on a project DRB panel, the candidate will be required to sign an agreement between MDOT, the Contractor, and the other two panel members.

The candidate agrees to demonstrate knowledge of, and performance in compliance with MDOT's standard construction practices; the Project construction contract, proposal, and plans; MDOT's Standard Specifications for Construction and all applicable publications referenced within; MDOT's Construction Manual; the Materials Source Guide; the Materials Quality Assurance Procedures Manual; the Density Control Handbook; and any and all other references, guidelines, and procedures manuals needed to carry out the work described herein in an appropriate manner.

If applicable, the candidate shall perform field operations in accordance with MDOT's Personal Protective Equipment (PPE) Policy as stated in the MDOT Guidance Document #10118. A current copy of MDOT's PPE Policy is available on the Bulletin Board System. The candidate shall perform field operations in accordance with MIOSHA regulations and accepted safety practices.

DRB procedures, special provisions, and contracts will be provided to candidates requesting said information prior to the training in October 2012. Candidates will not be required to enter an agreement or sign a contract without having been provided these documents.

Access to project documentation will be provided to selected DRB project panel members including project-specific construction contracts, proposals, plans, plan revisions, written instructions, and other information and/or data as deemed necessary by the DRB panel chair person.

PAYMENT TYPE:

Compensation for service as a DRB panel member has been established at a lump sum amount and will be provided by the prime contractor of the respective construction contract. Further details will be provided in the sample contract language prior to the October training.

**Michigan Department of Transportation (MDOT)
Candidate Application for Dispute Review Board (DRB)**

A. Contact Information

Name:		Date:	
Address:	City:	State:	Zip Code:
Phone #:	Email Address:		

B. Professional Licenses/Registrations (Please provide name/type of license, state, expiration date and number.)

<i>Name/Type of License/Registration</i>	<i>State and Number</i>	<i>Expiration Year</i>

C. Education/Related Training (Please list degree, college/other school and dates. Please indicate the location and date of your training.)

<i>University/College/Organization/Trade School</i>	<i>Degree/Certificate</i>	<i>Date/Year</i>

D. Construction Experience Summary

I have construction experience working in the following capacities:

	Civil Engineer		Architect		Builder/Developer
	Structural Engineer		Electrical Engineer		Designer/Planner
	Geologist		Land Surveyor		Mechanical Engineer
	General Contractor		Accountant		Chemical Engineer
	Construction Manager		Supplier/Manufacturer		Environmental Engineer
	Sub/Specialty Contractor		Owner Representative		Landscape Architect
	Other (Describe) →				

I have substantial experience in the following types of construction:

	Bridge (Concrete)		Bridge (Steel)		Buildings
	Earth Retaining Systems		Electrical Systems		Environmental
	Foundation		Highway		Landscaping
	Marine		Mechanical		Tunnel
	Other (Describe) →				

E. Qualification Statement

Candidates shall have substantial experience in or directly related to public agency highway and bridge construction projects with or on behalf of federal, state, or local government agencies, particularly MDOT. Experience shall be a minimum of 10 years in active involvement, supervision, or management of public agency highway and bridge construction contracts preferably with an emphasis in resolution of disputes arising out of said contracts. Lawyers, attorneys, and/or legal counsel are not permitted to be DRB candidates nor are they permitted to serve on a DRB panel in any capacity.

**Michigan Department of Transportation (MDOT)
Candidate Application for Dispute Review Board (DRB)**

Provide a 500 word or less statement of your qualifications that explain how you meet the aforementioned criteria:

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F. General Experience Summary

Please provide a brief description of your experience in 25 words or less. If you are approved to be a DRB candidate, this information will be included next to your name on the Dispute Review Board Candidates List posted on MDOT's website.

Description:

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**Michigan Department of Transportation (MDOT)
Candidate Application for Dispute Review Board (DRB)**

G. DRB Experience (include past and current experience if applicable)

Experience	MDOT	Other Public Agencies	Private Construction	Total
# of Jobs as DRB Member				
# of Jobs as DRB Chair				

H. Conflict of Interest and Ethics Statement

I will provide a conflict of interest statement and a disclosure statement describing past, present, anticipated, and planned relationships, including indirect relationships through my present employer, to other parties involved in a construction project, including but not limited to, relevant construction engineering and inspection (CEI) firms, contractors, or suppliers to the parties, parties' principals, or parties' counsel. Furthermore, I will disclose any close professional or personal relationships with all key members in the project. This will be completed prior to accepting a nomination to serve on a DRB panel for any construction project.

<input type="checkbox"/> I agree	<input type="checkbox"/> I do not agree
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I. Compensation

I agree that I will be fully compensated in accordance with the terms and conditions of the contract and Dispute Review Board Agreement. This will be full compensation for on site time, review time, travel expenses, transportation, lodging, time for travel and incidentals for each day, or portion thereof that I am at an authorized DRB hearing. In addition, I will be paid the appropriate rate specified in the Dispute Review Board Agreement for additional days necessary to conduct a hearing that has been authorized.

<input type="checkbox"/> I agree	<input type="checkbox"/> I do not agree
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J. Professional References

Provide the following information for at least two references to attest to your professional experience as depicted in this application. In addition, these references should be able to attest to your suitability to perform as a DRB member and provide additional information about you.

Name:	Address:	Phone:

**Michigan Department of Transportation (MDOT)
Candidate Application for Dispute Review Board (DRB)**

Certification and Acknowledgement

The information in this application is true and accurate to the best of my knowledge, information, and belief. Moreover, I acknowledge that submittal of this application is not a guarantee of work as a DRB panel member. I further acknowledge that there is a selection and approval process that must occur in order to be a part of a project specific DRB panel. (Must be checked to submit form).

Signature of Applicant: _____

Send Completed Form to: R. Jason Clark, P.E.
Construction Contracts Engineer
8885 Ricks Rd
PO Box 30049
Lansing, MI 48909
ClarkJ25@michigan.gov

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
DISPUTE REVIEW BOARD (DRB)
Added 8/29/2012

CFS:JJG

1 of 2

CFS:APPR:JC:DBP:08-17-12

a. Description. A Dispute Review Board (DRB) will be established for this contract. The DRB will evaluate and provide recommendations as to the entitlement of claims arising out of the work on the contract. This project will not follow the claim procedures as outlined in Bureau of Highway Instructional Memorandum (BOHIM) 2011-07 beginning with the Region Office Review (ROR) level and after. The operating procedures for this process are located under the Construction Field Services heading on the MDOT website at:

http://www.michigan.gov/mdot/0,1607,7-151-9622_11044_11367---,00.html

b. Continuance of Work. During the course of the DRB process, the Contractor will continue with the work per the contract in a diligent manner, without delay, and will conform to the Engineer's decision or order, and will be governed by all applicable provisions of the contract. Throughout any protested work, records are to be kept per subsection 104.10.B of the Standard Specifications for Construction. The Contractor will permit the DRB access to these and any other records needed for evaluating the disputes and claims.

c. Dispute Review Board Membership. The DRB will consist of the following three members:

1. One member selected by the Department and approved by the Contractor,
2. One member selected by the Contractor and approved by the Department, and
3. The first two members will mutually select and agree upon the third member who will act as the chairperson for all DRB activities.

If there is an impasse between the first two parties in the determination of the third DRB member (chairperson), the Department's Chief Operations Officer will evaluate and make the final decision on the DRB chairperson.

DRB membership is to be established prior to the start of contract work. DRB members must be on the Department's list of approved DRB candidate panel members, which is maintained under the Construction Field Services heading on the MDOT website listed herein. Execution of the DRB agreement between the Contractor, the Department and the DRB members, as provided by the Department, will proceed immediately after agreement is reached on all members of the DRB. A copy of this agreement can be found under the Construction Field Services heading at the website listed herein. The execution of this agreement will not modify the requirements, terms, or conditions of this special provision. The respective MDOT Region Construction Engineer will coordinate and ensure that all signatures are obtained before the first DRB hearing.

d. Measurement and Payment. A per hearing cost of \$6,500 for the initial hearing day has been established by the Department for providing compensation for all members of the DRB for participation in an actual hearing. The DRB chairman will receive \$2,500 for participation in the hearing while the remaining two members will receive \$2,000 each. The Department and the Contractor will equally share in the compensation due to the DRB for participation in an actual hearing. The Contractor is required to pay the \$6,500 hearing cost to the DRB members as specified above. Proof of payment must be provided to the Engineer prior to the hearing date. The Department will compensate the Contractor for the Department's share of the cost on the next subsequent pay estimate after receiving proof of payment by the Contractor. Such payment will be full and complete compensation to DRB members for all expenses related to the hearing. This payment includes all costs including, but not limited to, travel, accommodations, meals, pre/post hearing work, review of position papers and any rebuttals, conducting the hearing, drafting and issuance of recommendations, and re-addressing any requests for clarification. Hearings are to be promptly scheduled for all DRB claims for which proof of payment has been provided to the Engineer. The \$6,500 cost for the hearing will be paid to the panel members as outlined in the schedule above. Reimbursement of the MDOT portion of the DRB cost will be made to the Contractor under the pay item **Dispute Review Board, Hearing**

It is not intended for hearings to last longer than a single day, however, in some cases they may. Any additional time and/or compensation for a hearing would only be allowed with prior written approval of the Department and the Contractor. If an additional day(s) is granted for hearing business, it will be at \$3,000 per calendar day. Each DRB panel member, including the chairman, will receive \$1,000. The Department and the Contractor will equally share in this additional compensation and the same methods of payment to the DRB and the Contractor set forth above will apply. The MDOT share of the DRB cost for necessary and approved additional days will be reimbursed to the Contractor under the pay item **Dispute Review Board, Hearing, Additional Day**.

DRB progress meetings may be conducted if conditions warrant and the Contractor and the Engineer mutually agree. Progress meetings are encouraged on projects that begin to have frequent hearing meetings. These meetings are intended to familiarize the DRB panel with the project and provide field updates on project progress and issues that may be in initial contention. Progress meetings are intended to be conducted on a monthly or quarterly basis as determined and agreed to by the Contractor and the Engineer. Each progress meeting will be paid at \$3,000 per calendar day. Each DRB panel member, including the chairman, will receive \$1,000. The Department and the Contractor will equally share in this additional compensation and the same methods of payment to the DRB and the Contractor set forth above will apply. The MDOT share of the DRB cost for each progress meeting day will be reimbursed to Contractor under the pay item **Dispute Review Board, Progress Meeting**.

The completed work, as described, will be paid at the respective values identified herein using the following pay items. These pay items are fixed in total value and the Contractor will not enter a unit bid cost for these items.

Pay Item	Pay Unit
Dispute Review Board, Hearing	Dollar
Dispute Review Board, Hearing, Additional Day	Dollar
Dispute Review Board, Progress Meeting	Dollar