MICHIGAN DEPARTMENT OF TRANSPORTATION
COMPLIANCE WITH CONTRACT REQUIREMENTS
Act 84, Public Acts 2015 Section 381

Act 84, Public Acts of 2015 Section 381 states the following:

The department shall require as a condition of each contract or subcontract for construction, maintenance, or engineering services that the prequalified contractor or prequalified subcontractor agree to use the E-Verify system to verify that all persons hired during the contract term by the contractor or subcontractor are legally present and authorized to work in the United States. The department may verify this information directly or may require contractors and subcontractors to verify the information and submit a certification to the department. The department shall report to the house and senate appropriations committees and the house and senate fiscal agencies by March 1, of each year, describing the processes it has developed and implemented under provisions of this section. As used in this section, "E-Verify" means an Internet-based system operated by the department of homeland security, U.S. citizenship and immigration services in partnership with the social security administration.

The Department requires contractors and consultants to certify the use of E-Verify for new employees. As a result, the Department has taken the following steps to educate and ensure contractors and consultants are in compliance with the above Act:

- All projects that were posted or advertised by the Department included notifications describing the requirements of the E-Verify program and the Department of Homeland Security's website (http://www.dhs.gov/E-Verify) to register. Please see Attachments A and B.

- The Department added certification statements to the consultant and contractor prequalification applications stating "by signing the application the signee have or will use E-verify System to verify that new employees are legally present and authorized to work in the United States". Please see Attachments C and D.

- All contractor and consultant subcontracts are required to include E-Verify language. Verification of the contractor's use of E-verify will be part of the random review of subcontract information performed by MDOT staff.
  Please see Attachments B and E.

NOTIFICATION
E-VERIFY REQUIREMENTS

E-Verify is an Internet based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of that employee to work in the United States. There is no charge to employers to use E-Verify. The E-Verify system is operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration. E-Verify is available in Spanish.

The State of Michigan is requiring, under Public Act 200 of 2012, Section 381, that as a condition of each contract or subcontract for construction, maintenance, or engineering services that the pre-qualified contractor or subcontractor agree to use the E-Verify system to verify that all persons hired during the contract term by the contractor or subcontractor are legally present and authorized to work in the United States.

Information on registration for and use of the E-Verify program can be obtained via the Internet at the DHS Web site: http://www.dhs.gov/E-Verify.

The documentation supporting the usage of the E-Verify system must be maintained by each consultant and be made available to MDOT upon request.

It is the responsibility of the prime consultant to include the E-Verify requirement documented in this NOTIFICATION in all tiers of subcontracts.

9/13/12

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
E-VERIFY

CSD:JDM | 1 of 1 | APPR:JJG:JC:10-24-12
FHWA:APPR:10-25-12

a. Description. E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of that employee to work in the United States. There is no charge to employers to use E-Verify. The E-Verify system is operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration. E-Verify is available in Spanish.

The State of Michigan is requiring all Contractors, and Subcontractors, to verify that new employees are legally present and authorized to work in the United States, using the E-Verify System.

Information on registration for and use of the E-Verify program can be obtained via the Internet at the DHS Web site: http://www.dhs.gov/E-Verify.

It is the responsibility of the Contractor to include this specification in all tiers of subcontracts.

Verification of the Contractors' use of E-verify will be a part of the random review of subcontract information performed by Contract Services Division.
The required use of the E-Verify system will not be paid for separately as part of the contract but is considered included in the costs for other pay items in the contract.

MDOT 1313 (09/13)

AUTHORIZATION FOR VERIFICATION AND AFFIDAVIT

I, being duly sworn, understand that Act 170 of the Public Acts of 1933 permits, and the "Administrative Rules Governing the Prequalification of Construction Contractors" require the disclosure of financial and other information in the Confidential Prequalification Application and Financial Statement, Form 1313. I am also aware that the submission of false and deceptive information is a misdemeanor under Act 170, and submission of fraudulent statements may result in the prospective bidder not being prequalified, swear that to the best of my knowledge, the financial statements and other information set forth in this form are true and accurate statements as of the fiscal year end _____, and that the Certified Public Accountant who prepared the financial statement accompanying this form, as well as any depository, vendor or other agency named in these documents, is authorized to supply the Michigan Department of Transportation with any information to verify the statements contained in this form.

I also understand that by signing below I have/will use the E-Verify System to verify that new employees are legally present and authorized to work in the United States.

NAME (Print or type)	TITLE
LEGAL COMPANY NAME (BIDDER)	
SIGNATURE OF OWNER, OFFICER, OR PARTNER	DATE

Subscribe and sworn to before me this _____ day of _____ 20 _____

NOTARY PUBLIC SIGNATURE	COUNTY/STATE	COMMISSION EXPIRES

NOTARY'S PRINTED NAME _____

Attachment C

Michigan Department of Transportation 1242 (02/15)

CONSULTANT PREQUALIFICATION APPLICATION

NOTE: This completed form must be included with all submittals; including requests for initial prequalification, renewals, and requests for new classifications.

DATE

LEGAL ENTITY NAME	ASSUMED NAME	FED. I.D. NO

FISCAL YEAR (MONTH/DAY)

CHECK IF APPLICABLE OVERHEAD TIER	CHECK ONE	
☐ Safe Harbor Overhead Rate	☐ Minority Owned Business	☐ Woman Owned Business
☐ Overhead Rate Compilation	☐ Minority Woman Owned Business	
☐ CPA FAR Compliant Overhead Audit		

CERTIFICATION AFFIDAVIT

The undersigned affirms they have read and understand all statements and supporting documentation submitted in this application package, and that everything is true and correct and includes all material information necessary to identify and explain the operations of _____. Any misrepresentation will be grounds for revoking prequalification and for initiating action under federal or state laws concerning false statements. The undersigns also affirms that this company is in compliance with all applicable Michigan laws and regulations,

I also understand that by signing below, I have/will use the E-Verify system to verify that new employees are legally present and authorized to work in the United States.

PRINT OR TYPE NAME, SAME AS SIGNATURE BELOW	TITLE
AUTHORIZED SIGNATURE	DATE

Attachment D

AGREEMENT BETWEEN [PRIME'S NAME] AND [SUBCONSULTANT'S NAME]

THIS AGREEMENT is entered into between [PRIME] and [Subconsultant] for the following reasons:

1. [PRIME] has entered into an agreement dated [MM/DD/YY] (Prime Agreement, Subconsultant Contract No. [MDOT contract no. / Authorization no], with the Michigan Department of Transportation (Owner), to perform or provide [TYPE OF SERVICES] for the [project name description] CS [#####] - JN [######] & [#######], identified as [PRIME] Project Number [#####] (the Project); and,
2. [PRIME] requires certain services in connection with the Project (the Services); and,
3. Subconsultant is prepared to provide the [services subconsultant will be providing].

In consideration of the promises contained in this Agreement, [PRIME] and [Subconsultant] agree as follows:

ARTICLE 1 - EFFECTIVE DATE

The effective date of this Agreement shall be [MM/DD/YY]. The Agreement will expire on [MM/DD/YY].

ARTICLE 2 - GOVERNING LAW

This Agreement shall be governed by the laws of the State of Michigan as set forth in the Prime Agreement.

ARTICLE 3 - SCOPE OF SERVICES

Subconsultant shall provide the Services described in Attachment A, Scope of Services. [PRIME] shall be the general administrator and coordinator of Subconsultant's services and shall facilitate the exchange of information among the other independent subconsultants (if any) engaged by [PRIME] as necessary for the coordination of their services. All Project communications shall be made through or with the prior written approval of [PRIME]. Owner and [PRIME] shall have the right to observe performance of the Services and to review Subconsultant's files and records relating to the Project.

ARTICLE 4 - SCHEDULE

Subconsultant shall provide the Services pursuant to the Schedule set forth in Attachment B, Schedule. Subconsultant recognizes that the services of [PRIME] and others involved in the Project are dependent upon the complete, accurate and timely performance of Subconsultant's Services. Unless otherwise provided in this Agreement, Subconsultant shall perform such Services in the same character, timing, and sequence as [PRIME] is required to perform the services under the Prime Agreement. Subconsultant's failure to so perform shall be considered a material breach of this Agreement.

ARTICLE 5 - COMPENSATION

A. [PRIME] shall pay Subconsultant on the basis of [PAYMENT METHOD – example cost plus fixed fee], in accordance with Attachment C, Compensation; the agreement maximum is $00.00 which includes fixed fee amount [if applicable] is $0.00.

B. Subconsultant shall submit periodic invoices for Services rendered. At a minimum, all invoices shall include (1) the [PRIME] Project number, (2) a unique invoice number, (3) an itemized statement of the Services performed for the invoiced period, and (4) a statement of amounts previously invoiced, amount of the current invoice, and total amount billed to date. Subconsultant is advised that additional documentation may be necessary if required by Owner or [PRIME] in order to validate invoiced amounts. If [PRIME] objects to any invoice submitted by Subconsultant, [PRIME] shall so advise Subconsultant in writing giving reasons therefore within fourteen calendar days of receipt of such invoice. If no such objection is made, the invoice will be considered acceptable to [PRIME].

C. [PRIME] shall invoice Owner on account of Subconsultant's Services and shall pay Subconsultant within ten (10) calendar days of the time [PRIME] receives payment from Owner on account thereof. Invoices must be received prior to [PRIME's] monthly closing date to be considered with the current month's invoice to the Owner. It is a condition precedent to [PRIME's] payment to Subconsultant that [PRIME] have received corresponding payment from Owner. Payments to Subconsultant will be reduced by any amounts withheld by Owner. Upon the release to [PRIME] of any amount which includes payments due Subconsultant, [PRIME] will forward to Subconsultant its portion of such payment.

ARTICLE 6 - PRIME AGREEMENT

A copy of the Prime Agreement is attached as Attachment D. All portions thereof are incorporated herein and made binding on Subconsultant. In the event of a conflict between the terms and conditions of this Agreement and those of the Prime Agreement, the terms and conditions of this Prime Agreement shall prevail.

ARTICLE 7 - QUALITY MANAGEMENT

A. Within 30 calendar days of execution of this Agreement, Subconsultant shall develop and submit to [PRIME] a draft Quality Assurance/Quality Control (QA/QC) Plan specifically for this Project. Subconsultant and [PRIME] shall collaborate to develop a final Subconsultant QA/QC Plan which,

upon acceptance by both parties, shall become part of this Agreement.

B. The Subconsultant shall execute the QA/QC Plan throughout the course of the Services and provide to [PRIME] periodic documentation, or other mutually acceptable records, demonstrating Subconsultant's compliance with the Plan. In addition, Subconsultant agrees to allow [PRIME] to conduct a "Quality Management Audit" on Subconsultant's premises, or other mutually acceptable location, on a periodic basis as may be necessary to ascertain Subconsultant's compliance with the QA/QC plan. Any non-compliance shall be addressed to [PRIME's] reasonable satisfaction by the Subconsultant within a mutually agreed upon time period. Consistent non-compliance or any failure to correct non-compliance to [PRIME's] reasonable satisfaction shall be considered a material breach of this Agreement.

C. Neither [PRIME's] acceptance of the Subconsultant's QA/QC Plan nor any "Quality Management Audit" shall relieve the Subconsultant of sole responsibility for the professional quality and technical accuracy of all Services under this Agreement.

ARTICLE 8 – INDEMNIFICATION

A. Subconsultant shall indemnify and hold harmless [PRIME] and Owner and is subject to the same indemnification and duties to defend as required under the Prime Agreement attached hereto and incorporated herein.

B. To the fullest extent permitted by law, and without limiting the generality of the foregoing, this indemnification obligation shall extend to and include any actions brought by, or in the name of, any employee of Subconsultant or others for whom the Subconsultant is legally liable.

C. The terms and conditions of this Article shall survive completion of all Services, obligations, and duties provided for in this Agreement, or the termination of this Agreement for any reason.

ARTICLE 9 – INSURANCE

A. During the performance of the Services under this Agreement, Subconsultant shall maintain the following insurance with carriers having a Best's rating of at least B+ and authorized to do business in the state in which the Services are being performed:

(1) General Liability Insurance on a coverage form equal to ISO CG 00 01, on an occurrence basis, with a limit of not less than $1,000,000 per occurrence and $2,000,000 general aggregate, including a per-project endorsement.

(2) Automobile Liability Insurance to include coverage for all hired, owned and non-owned vehicles, with a combined single limit of not less than $1,000,000.

(3) Workers' Compensation Insurance, in accordance with the laws of the state in which the Services are being performed, and Employers' Liability Insurance with limits according to such statutory requirements, or $500,000 for each accident, whichever is greater. Where Services fall within the authority of the United States Longshoreman's and Harbor Workers Compensation Act, or the Jones Act, Subconsultant's insurance shall include such Acts.

(4) Professional Liability Insurance with limits of not less than $1,000,000 per claim and annual aggregate.

(5) Subconsultant shall provide and maintain the following if applicable to the Services:

a. When operations related to the Services hereunder will involve subsurface investigation (such as soil samples, core drilling, test wells, etc.), Subconsultant, or its subcontractor(s) as applicable, shall maintain Contractor's Pollution Liability Insurance, including bodily injury, property damage and cleanup costs, with limits of not less than $1,000,000 per occurrence and annual aggregate.

b. When necessary for Subconsultant to use watercraft for the performance of the Services under this Agreement, and if excluded by Subconsultant's General Liability policy, Subconsultant shall maintain a Watercraft Liability policy with a minimum limit of $1,000,000 per occurrence for bodily injury and property damage, including protection & indemnity where applicable. Coverage will apply to owned, non-owned and hired watercraft.

c. When necessary for Subconsultant to use aircraft (fixed-wing or rotary) for the performance of the Services under this Agreement, Subconsultant shall maintain Aircraft Liability with a minimum limit of $1,000,000 per occurrence for bodily injury and property damage, including passenger liability. Coverage will apply to owned, non-owned and hired aircraft.

B. The policies shall provide, or be endorsed to provide, that: (a) at least thirty (30) days' advance written notice shall be given to [PRIME] prior to cancellation or non-renewal, (b) [PRIME], its parent company, affiliated and subsidiary entities, directors, officers and employees, and the Owner shall be added as additional insureds under policies listed under (1), (2) and (5) above, (c) on those policies where [PRIME] and the Owner are additional insureds, such insurance shall be primary and any insurance maintained by [PRIME] or the Owner shall be excess and not contribute with it, and (d) Subconsultant and its insurer(s) waive their rights of subrogation against [PRIME] and Owner.

C. Subconsultant shall furnish [PRIME] certificates of insurance which evidence the requirements of this Article prior to performing any Services under this

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Agreement. Subconsultant further agrees to file new certificates showing renewal of coverage and limits at least thirty (30) days prior to the expiration of the current policies. Certificates shall include reference to [PRIME's] Project Number as first stated above.

ARTICLE 10 - INDEPENDENT CONTRACTOR

A. Subconsultant undertakes performance of the Services as an independent contractor and shall be wholly responsible for the methods of performance. Subconsultant has complete and sole responsibility for its employees, agents, subcontractors or any other persons or entity that Subconsultant hires to perform or assist in performing the Services hereunder.

B. Subconsultant is solely responsible for (a) payment of wages, benefits, and other compensation to or for its employees, (b) payment of applicable payroll, unemployment, and other taxes and withholding of applicable social security (FICA) and income taxes with respect to its employees, and (c) compliance with applicable Workers' Compensation laws with respect to maintenance of workers' compensation and employer's liability insurance coverages.

ARTICLE 11 - COMPLIANCE WITH LAWS

A. In performance of the Services, Subconsultant shall comply with applicable regulatory requirements including federal, state, and local laws, rules, regulations, orders, codes, criteria, and standards.

B. When applicable to this Agreement as determined by federal or state laws, or if required by the Prime Agreement, Subconsultant shall comply with Executive Order 12989 requiring the use of the federal "E-Verify" system to verify its employees' eligibility to work in the United States.

C. Subconsultant shall procure the permits, certificates, and licenses necessary to allow Subconsultant to perform the Services. Subconsultant shall not be responsible for procuring permits, certificates, and licenses required for any construction unless such responsibilities are specifically assigned to Subconsultant in Attachment A, Scope of Services.

ARTICLE 12 - [PRIME's] RESPONSIBILITIES

A. [PRIME] shall perform the following in a timely manner so as not to delay the Services of Subconsultant:

(1) Provide criteria and information pertinent to Subconsultant's Services as to Owner's and [PRIME's] requirements for the Project, including design objectives and constraints, space, capacity, and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner and [PRIME] will require to be included in the drawings and specifications to be furnished by Subconsultant under this Agreement, if any.

(2) Make available to Subconsultant drawings, specifications, schedules, and other information, interpretations, and data which are prepared by [PRIME], or by others, which [PRIME] knows are reasonably available to [PRIME], and which [PRIME] and Subconsultant consider pertinent to Subconsultant's responsibilities hereunder.

(3) Request Owner to arrange for access to and to make provisions for Subconsultant to enter upon public and private property as required for Subconsultant to perform the Services.

(4) Give prompt notice to Subconsultant whenever [PRIME] observes or otherwise becomes aware of any development that affects the scope or timing of Subconsultant's Services.

B. Unless otherwise provided in the Agreement, the information and services to be provided by [PRIME] under this Article will be without cost to Subconsultant.

ARTICLE 13 - OWNERSHIP OF DOCUMENTS

All documents, including, but not limited to, drawings, specifications, computer software and other such instruments of service prepared by Subconsultant pursuant to this Agreement, whether completed or in progress, are the property of [PRIME]. Ownership shall transfer to Owner if or as required by the Prime Agreement. Intellectual property rights shall assign and transfer to Owner if or as required by the Prime Agreement. Any use except for the specific purpose intended by this Agreement will be at the user's sole risk and without liability or legal exposure to Subconsultant.

ARTICLE 14 - TERMINATION AND SUSPENSION

A. This Agreement will terminate automatically upon termination of the Prime Agreement. [PRIME] will promptly notify Subconsultant of such termination.

B. [PRIME] may terminate or suspend performance of all or any part of this Agreement for [PRIME's] convenience upon written notice to Subconsultant. Upon receipt of notice, Subconsultant shall terminate or suspend performance of the Services on a schedule acceptable to [PRIME]. Subconsultant's sole remedy shall be payment for Services performed in accordance with this Agreement up to the effective date of termination or suspension. Nothing in this Article shall prohibit or limit [PRIME] from recovering its costs, losses and damages (direct, indirect, and consequential) arising out of or resulting from Services provided by Subconsultant prior to [PRIME's] termination or suspension for convenience.

C. [PRIME] may terminate this Agreement upon written notice in the event of substantial failure by Subconsultant to perform in accordance with this Agreement; provided, however, Subconsultant shall have 14 calendar days from receipt of the termination notice to cure or to submit a plan for