



1. Solicitation #: 3450005027 / 23-TP-0153

2. Solicitation Issue Date: 6/8/2023

3. Brief Description of Requirement:

**Purpose:** The purpose of this solicitation is to preform Subrecipients Management Comprehensive Reviews of all of ODOT's 5310 and 5311 subrecipients.

Questions may be submitted up until 2:00 PM, Wednesday, June 14, 2023 with responses made available no later than 3:00 PM, Friday, June 16, 2023.

This Solicitation is for services in accordance within 74 O.S. Section 85.4.E.1 and in accordance with Section 85.12.B.3.

Bids are to be submitted to ODOT via email to [cjwilliams@odot.org](mailto:cjwilliams@odot.org). Subject Line of email should include Solicitation 23-TP-0153 Response **Due Date (2:00 PM, Monday, 7/10/2023)**.

4. Response Due Date<sup>1</sup>: 7/10/2023

Time: 2:00 PM CST/CDT

5. Issued By and **RETURN SEALED BID TO<sup>2</sup>:**

Electronic Submission Address: CJWILLIAMS@ODOT.ORG

6. Solicitation Type (type "X" at one below):

- Invitation to Bid
- Request for Proposal
- Request for Quote

7. Contracting Officer:

Name: Crystal Williams

Phone: (405) 588-3397

Email: CJWILLIAMS@ODOT.ORG

<sup>1</sup> Amendments to solicitation may change the Response Due Date (read GENERAL PROVISIONS, section 3, "Solicitation Amendments").

<sup>2</sup> If "U.S. Postal Delivery" differs from "Carrier Delivery", use "Carrier Delivery" for courier or personal deliveries.



# SOLICITATION REQUEST

Request for Quote

Request for Proposal

Request for Bid

**Dispatch via Print**

## Department of Transportation

Dept of Transportation  
Procurement Branch  
200 NE 21st Street  
Oklahoma City OK 73105

<b>Request Quote ID.</b>	<b>Date</b>	<b>Buyer</b>	<b>Page</b>
3450005027	06/08/2023	Crystal Williams	1
<b>Payment Terms</b>	<b>DateTime Quote Open</b>	<b>Closing</b>	
0 Days	06/08/2023 08:29 AM	07/10/2023 02:00 PM	
Requisition Number Reference:		23-TP-0153	

**Ship To:** Dept of Transportation  
OFFICE OF MOBILITY & PUBLIC TRANSIT  
200 NE 21st Street  
Oklahoma City OK 73105

**Bill To:** DEPT OF TRANSPORTATION  
OFFICE OF MOBILITY & PUBLIC TRANSIT  
200 NE 21ST STREET  
OKLAHOMA CITY OK 73105

**Supplier:** \_\_\_\_\_  
Address: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ ST: \_\_\_\_\_ ZIP: \_\_\_\_\_

### Supplier Responses

Line	Cat CD / Item # - Descr	Qty.	UOM	Unit Cost	Ext. Cost
1	81101510 / CONSULTING SERVICES	1	EA		

The purpose of this work is to perform Subrecipients Management Comprehensive Reviews of all of ODOT's 5310 and 5311 subrecipients.

These reviews will be conducted on-site at the subrecipients headquarters. The reviews are a tool to ensure subrecipients management, operations and compliance with federal regulations. While complying itself to the current Oklahoma State Management Plan.

**Freight Terms:** FOB DEST

**Ship Via:** COMMON

Lead Time: \_\_\_\_\_

### Supplier Remarks:

COMMENTS:  
AUTHORIZED BY TITLE 69, SECTION 708.2, TITLE 74, SECTION 85.12.B.3

### Term and Amount

The term of this agreement will be 12 months with an initial contract period of one year from the date of award with the option to renew for an additional two year periods.

The Consultant may request to extend the project period one (1) time for up to twelve (12) months through a written No Cost Time Extension (NCTE). The NCTE shall be coordinated through the Consultant and ODOT. Should a NCTE request be approved, a formal Supplemental Agreement will be issued to the Consultant by ODOT. No new funds or new tasks may be added to the project if approved for a NCTE. Should a NCTE request be approved, the Consultant may utilize remaining unexpended project funds within the NCTE period.

### Payment Schedule

The successful consulting firm is expected to invoice monthly for work performed and will be paid upon the consulting firm submitting invoices and supporting documents.

### This is NOT AN ORDER

All returned quotes and related documents must be identified with our request for quote Number.

**Authorized Signature**

*"Certification for Competitive Bid and Contract" **MUST** be submitted along with the response to the Solicitation.*

1. **RE: Solicitation #** 3450005027 / 23-TP-0153

2. **Bidder General Information:**

FEI / SSN : \_\_\_\_\_ Supplier ID: \_\_\_\_\_

Company Name: \_\_\_\_\_

3. **Bidder Contact Information:**

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact Title: \_\_\_\_\_

Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Email: \_\_\_\_\_ Website: \_\_\_\_\_

4. **Oklahoma Sales Tax Permit<sup>3</sup>:**

YES – Permit #: \_\_\_\_\_

NO – Exempt pursuant to Oklahoma Laws or Rules – Attach an explanation of exemption

5. **Registration with the Oklahoma Secretary of State:**

YES - Filing Number: \_\_\_\_\_

NO - Prior to the contract award, the successful bidder will be required to register with the Secretary of State or must attach a signed statement that provides specific details supporting the exemption the supplier is claiming ([www.sos.ok.gov](http://www.sos.ok.gov) or 405-521-3911).

6. **Workers' Compensation Insurance Coverage:**

Bidder is required to provide with the bid a certificate of insurance showing proof of compliance with the Oklahoma Workers' Compensation Act.

YES – Include with the bid a certificate of insurance.

NO – Exempt from the Workers' Compensation Act pursuant to 85A O.S. § 2(18)(b)(1-11) – Attach a written, signed, and dated statement on letterhead stating the reason for the exempt status.<sup>4</sup>

<sup>3</sup> For frequently asked questions concerning Oklahoma Sales Tax Permit, see <https://www.ok.gov/tax/Businesses/index.html>

<sup>4</sup> For frequently asked questions concerning workers' compensation insurance, see <https://www.ok.gov/wcc/Insurance/index.html>

**7. Disabled Veteran Business Enterprise Act**

- YES – I am a service-disabled veteran business as defined in 74 O.S. §85.44E. Include with the bid response 1) certification of service-disabled veteran status as verified by the appropriate federal agency, and 2) verification of not less than 51% ownership by one or more service-disabled veterans, and 3) verification of the control of the management and daily business operations by one or more service-disabled veterans.
- NO – Do not meet the criteria as a service-disabled veteran business.

Authorized Signature	Date
Printed Name	Title



**Certification for Competitive Bid and/or Contract (Non-Collusion Certification)**

**NOTE:** A certification shall be included with any competitive bid and/or contract exceeding \$5,000.00 submitted to the State for goods or services.

Agency Name: Oklahoma Department of Transportation Agency Number: 34500

Solicitation or Purchase Order #: 23-TP-0153 / 3450005027

Supplier Legal Name: \_\_\_\_\_

**SECTION I [74 O.S. § 85.22]:**

A. For purposes of competitive bid,

1. I am the duly authorized agent of the above named bidder submitting the competitive bid herewith, for the purpose of certifying the facts pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to said bid;
2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and
3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:
  - a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,
  - b. to any collusion with any state official or employee as to quantity, quality, or price in the prospective contract, or as to any other terms of such prospective contract, nor
  - c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract, nor
  - d. to any collusion with any state agency or political subdivision official or employee as to create a sole-source acquisition in contradiction to Section 85.45j.1. of this title.

B. I certify, if awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract herein.

**SECTION II [74 O.S. § 85.42]:**

For the purpose of a contract for services, the supplier also certifies that no person who has been involved in any manner in the development of this contract while employed by the State of Oklahoma shall be employed by the supplier to fulfill any of the services provided for under said contract.

The undersigned, duly authorized agent for the above-named supplier, by signing below acknowledges this certification statement is executed for the purposes of:

the competitive bid attached herewith and contract, if awarded to said supplier;

**OR**

the contract attached herewith, which was not competitively bid and awarded by the agency pursuant to applicable Oklahoma statutes.

\_\_\_\_\_  
Supplier Authorized Signature

\_\_\_\_\_  
Certified This Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email

\_\_\_\_\_  
Fax Number

## **A. GENERAL PROVISIONS**

### **A.1. Definitions**

As used herein, the following terms shall have the following meaning unless the context clearly indicates otherwise:

- A.1.1. "Acquisition" means items, products, materials, supplies, services, and equipment an entity acquires by purchase, lease purchase, lease with option to purchase, or rental;
- A.1.2. "Addendum" means a written restatement of or modification to a Contract Document executed by the Supplier and State.
- A.1.3. "Bid" means an offer in the form of a bid, proposal, or quote a bidder submits in response to a solicitation;
- A.1.4. "Bidder" means an individual or business entity that submits a bid in response to a solicitation;
- A.1.5. "Solicitation" means a request or invitation by the State Purchasing Director or a state agency for a supplier to submit a priced offer to sell acquisitions to the state. A solicitation may be an invitation to bid, request for proposal, or a request for quotation; and
- A.1.6. "Supplier" or "vendor" means an individual or business entity that sells or desires to sell acquisitions to state agencies.

### **A.2. Bid Submission**

- A.2.1. Submitted bids shall be in strict conformity with the instructions to bidders and shall be submitted with a completed Responding Bidder Information, included with this packet, and any other forms required by the solicitation.
- A.2.2. Bids shall be submitted to the procuring agency electronically via email to the buyer listed in this solicitation. This will still remain a sealed bid and no attachments will be opened until bid closing.
- A.2.3. The required certification statement, "Certification for Competitive Bid and/or Contract (Non-Collusion Certification)", included with this packet, must be made out in the name of the bidder and must be properly executed by an authorized person, with full knowledge and acceptance of all its provisions.
- A.2.4. All bids shall be legible and completed in ink or with electronic printer or other similar office equipment. Any corrections to bids shall be identified and initialed in ink by the bidder. Penciled bids and penciled corrections shall NOT be accepted and will be rejected as non-responsive. The bidder is required to submit an electronic copy.
- A.2.5. All bids submitted shall be subject to the Oklahoma Central Purchasing Act, Central Purchasing Rules, and other statutory regulations as applicable, these General Provisions, any Special Provisions, solicitation specifications, required certification statement, and all other terms and conditions listed or attached herein—all of which are made part of this solicitation.

### **A.3. Solicitation Amendments**

- A.3.1. If an "Amendment of Solicitation", if included later with this packet, is issued, the bidder shall acknowledge receipt of any/all amendment(s) to solicitations by signing and returning the solicitation amendment(s). Amendment acknowledgement(s) may be submitted with the bid or may be forwarded separately. If forwarded separately, amendment acknowledgement(s) must contain the solicitation number and response due date and time on the front of the envelope. The procuring agency must receive the amendment acknowledgement(s) by the response due date and time specified for receipt of bids for the bid to be deemed responsive. Failure to acknowledge solicitation amendments may be grounds for rejection.
- A.3.2. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the solicitation. All amendments to the solicitation shall be made in writing by the procuring agency.
- A.3.3. It is the bidder's responsibility to check frequently for any possible amendments that may be issued. The procuring agency is not responsible for a bidder's failure to download any amendment documents required to complete a solicitation.

### **A.4. Bid Change**

If the bidder needs to change a bid prior to the solicitation response due date, a new bid shall be submitted to the procuring agency with the following statement "This bid supersedes the bid previously submitted."

### **A.5. Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

By submitting a response to this solicitation:

- A.5.1. The prospective primary participant and any subcontractor certifies to the best of their knowledge and belief, that they and their principals or participants:
- A.5.1.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal, State, or local department or agency;
  - A.5.1.2. Have not within a three-year period preceding this proposal been convicted of or pled guilty or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) contract; or for violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - A.5.1.3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph A.5.1.2. of this certification; and
  - A.5.1.4. Have not within a three-year period preceding this application/proposal had one or more public (Federal, State, or local) contracts terminated for cause or default.
- A.5.2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its solicitation response.

#### **A.6. Bid Opening**

Sealed bids shall be opened by the Oklahoma Dept of Transportation located at See Page 1  
\_\_\_\_\_ at the time and date specified in the solicitation as the Response Due Date and Time.

#### **A.7. Open Bid / Open Record**

Pursuant to the Oklahoma Public Open Records Act, a public bid opening does not make the bid(s) immediately accessible to the public. The procurement or contracting agency shall keep the bid(s) confidential and provide prompt and reasonable access to the records only after a contract is awarded or the solicitation is cancelled. This practice protects the integrity of the competitive bid process and prevents excessive disruption to the procurement process. The interest of achieving the best value for the State of Oklahoma outweighs the interest of vendors immediately knowing the contents of competitor's bids. [51 O.S. § 24A.5(5)]

Additionally, financial or proprietary information submitted by a bidder may be designated by the Procurement Division Manager as confidential and the procurement entity may reject all requests to disclose information designated as confidential pursuant to 62 O.S. (2012) § 34.11.1(H)(2) and 74 O.S. (2011) § 85.10. Bidders claiming any portion of their bid as proprietary or confidential must specifically identify what documents or portions of documents they consider confidential and identify applicable law supporting their claim of confidentiality. The ODOT General Counsel shall make the final decision as to whether the documentation or information is confidential pursuant to 74 O.S. § 85.10. Otherwise, documents and information a bidder submits as part of or in connection with a bid are public records and subject to disclosure after contract award or the solicitation is cancelled.

#### **A.8. Late Bids**

Bids received by the procuring agency after the response due date and time shall be deemed non-responsive and shall NOT be considered for any resultant award.

#### **A.9. Legal Contract**

- A.9.1. Submitted bids are rendered as a legal offer and any bid, when accepted by the procuring agency, shall constitute a contract.
- A.9.2. The Contract resulting from this solicitation may consist of the following documents in the following order of precedence:
  - A.9.2.1. Any Addendum to the Contract;
  - A.9.2.2. Purchase order, as amended by Change Order (if applicable);
  - A.9.2.3. Solicitation, as amended (if applicable); and
  - A.9.2.4. Successful bid (including required certifications), to the extent the bid does not conflict with the requirements of the solicitation or applicable law.
- A.9.3. Any contract(s) awarded pursuant to the solicitation shall be legibly written or typed.

## **A.10. Pricing**

- A.10.1. Bids shall remain firm for a minimum of sixty (60) days from the solicitation closing date.
- A.10.2. Bidders guarantee unit prices to be correct.
- A.10.3. In accordance with 74 O.S. §85.40, ALL travel expenses to be incurred by the supplier in performance of the Contract shall be included in the total bid price/contract amount.

## **A.11. Manufacturers' Name and Approved Equivalents**

Unless otherwise specified in the solicitation, manufacturers' names, brand names, information and/or catalog numbers listed in a specification are for information and not intended to limit competition. Bidder may offer any brand for which they are an authorized representative, and which meets or exceeds the specification for any item(s). However, if bids are based on equivalent products, indicate on the bid form the manufacturer's name and number. Bidder shall submit sketches, descriptive literature, and/or complete specifications with their bid. Reference to literature submitted with a previous bid will not satisfy this provision. The bidder shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Bids that do not comply with these requirements are subject to rejection.

## **A.12. Clarification of Solicitation**

- A.12.1. Clarification pertaining to the contents of this solicitation shall be directed in writing to the Contracting Officer specified in the solicitation and must be prior to the closing date of the solicitation.
- A.12.2. If a bidder fails to notify the State of an error, ambiguity, conflict, discrepancy, omission or other error in the SOLICITATION, known to the bidder, or that reasonably should have been known by the bidder, the bidder shall submit a bid at its own risk; and if awarded the contract, the bidder shall not be entitled to additional compensation, relief, or time, by reason of the error or its later correction. If a bidder takes exception to any requirement or specification contained in the SOLICITATION, these exceptions must be clearly and prominently stated in their response.
- A.12.3. Bidders who believe proposal requirements or specifications are unnecessarily restrictive or limit competition may submit a written request for administrative review to the contracting officer listed on the solicitation. This request must be made prior to the closing date of the solicitation.

## **A.13. Negotiations**

- A.13.1. In accordance with Title 74 §85.5, the State of Oklahoma reserves the right to negotiate with one, selected, all or none of the vendors responding to this solicitation to obtain the best value for the State. Negotiations could entail discussions on products, services, pricing, contract terminology or any other issue that may mitigate the State's risks. The State shall consider all issues negotiable and not artificially constrained by internal corporate policies. Negotiation may be with one or more vendors, for any and all items in the vendor's offer.
- A.13.2. Firms that contend that they lack flexibility because of their corporate policy on a particular negotiation item shall face a significant disadvantage and may not be considered. If such negotiations are conducted, the following conditions shall apply:
- A.13.3. Negotiations may be conducted in person, in writing, or by telephone.
- A.13.4. Negotiations shall only be conducted with potentially acceptable offers. The State reserves the right to limit negotiations to those offers that received the highest rankings during the initial evaluation phase.
- A.13.5. Terms, conditions, prices, methodology, or other features of the bidders offer may be subject to negotiations and subsequent revision. As part of the negotiations, the bidder may be required to submit supporting financial, pricing, and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the offer.
- A.13.6. The requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the State determines that a change in such requirements is in the best interest of the State Of Oklahoma.

## **A.14. Rejection of Bid**

The State reserves the right to reject any bids that do not comply with the requirements and specifications of the solicitation. A bid may be rejected when the bidder imposes terms or conditions that would modify requirements of the solicitation or limit the bidder's liability to the State. Other possible reasons for rejection of bids are listed in OAC 260:115-7-32.



#### **A.15. Award of Contract**

- A.15.1. The Procurement Division Manager may award the Contract to more than one bidder by awarding the Contract(s) by item or groups of items, or may award the Contract on an ALL OR NONE basis, whichever is deemed by the Procurement Division Manager to be in the best interest of the State of Oklahoma.
- A.15.2. Contract awards will be made to the lowest and best bidder(s) unless the solicitation specifies that best value criteria is being used.
- A.15.3. In order to receive an award or payments from the State of Oklahoma, suppliers must be registered. The vendor registration process can be completed electronically through the OMES website at the following link: <https://www.ok.gov/dcs/vendors/index.php>.

#### **A.16. Contract Modification**

- A.16.1. The Contract is issued under the authority of the Procurement Division Manager who signs the Contract. The Contract may be modified only through a written Addendum, signed by the ODOT and the supplier.
- A.16.2. Any change to the Contract, including but not limited to the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procuring agency in writing, or made unilaterally by the supplier, is a breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including unauthorized written Addendums, shall be void and without effect, and the supplier shall not be entitled to any claim under this Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the resultant Contract.

#### **A.17. Delivery, Inspection and Acceptance**

- A.17.1. Unless otherwise specified in the solicitation or awarding documents, all deliveries shall be F.O.B. Destination. The supplier(s) awarded the Contract shall prepay all packaging, handling, shipping and delivery charges and firm prices quoted in the bid shall include all such charges. All products and/or services to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the State at destination. "Destination" shall mean delivered to the receiving dock or other point specified in the purchase order. The State assumes no responsibility for goods until accepted by the State at the receiving point in good condition. Title and risk of loss or damage to all items shall be the responsibility of the supplier until accepted by the receiving agency. The supplier(s) awarded the Contract shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.
- A.17.2. Supplier(s) awarded the Contract shall be required to deliver products and services as bid on or before the required date. Deviations, substitutions or changes in products and services shall not be made unless expressly authorized in writing by the procuring agency.

#### **A.18. Invoicing and Payment**

- A.18.1. Upon submission of an accurate and proper invoice, the invoice shall be paid in arrears after products have been delivered or services provided and in accordance with applicable law. Invoices shall contain the purchase order number, a description of the products delivered or services provided, and the dates of such delivery or provision of services. An invoice is considered proper if sent to the proper recipient and goods or services have been received.
- A.18.2. State Acquisitions are exempt from sales taxes and federal excise taxes.
- A.18.3. Pursuant to 74 O.S. §85.44(B), invoices will be paid in arrears after products have been delivered or services provided.
- A.18.4. Payment terms will be net 45. Interest on late payments made by the State of Oklahoma is governed by 62 O.S. § 34.72.
- A.18.5. Additional terms which provide discounts for earlier payment may be evaluated when making an award. Any such additional terms shall be no less than ten (10) days increasing in five (5) day increments up to thirty (30) days. The date from which the discount time is calculated shall be the date of a proper invoice.

#### **A.19. Tax Exemption**

State agency acquisitions are exempt from sales taxes and federal excise taxes. Bidders shall not include these taxes in price quotes.

#### **A.20. Audit and Records Clause**

- A.20.1. As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any Contract with the State, the successful bidder(s) agree any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution and performance of the resultant Contract.
- A.20.2. The successful supplier(s) awarded the Contract(s) is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion and/or termination of the Contract. If an audit, litigation, or other action involving such records is started before the end of the seven (7) year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

#### **A.21. Non-Appropriation Clause**

The terms of any Contract resulting from the solicitation and any Purchase Order issued for multiple years under the Contract are contingent upon sufficient appropriations being made by the Legislature or other appropriate government entity. Notwithstanding any language to the contrary in the solicitation, purchase order, or any other Contract document, the procuring agency may terminate its obligations under the Contract if sufficient appropriations are not made by the Legislature or other appropriate governing entity to pay amounts due for multiple year agreements. The Requesting (procuring) Agency's decisions as to whether sufficient appropriations are available shall be accepted by the supplier and shall be final and binding.

#### **A.22. Choice of Law**

Any claims, disputes, or litigation relating to the solicitation, or the execution, interpretation, performance, or enforcement of the Contract shall be governed by the laws of the State of Oklahoma.

#### **A.23. Choice of Venue**

Venue for any action, claim, dispute or litigation relating in any way to the Contract shall be in Oklahoma County, Oklahoma.

#### **A.24. Termination for Cause**

- A.24.1. The supplier may terminate the Contract for default or other just cause with a 30-day written request and upon written approval from the procuring agency. The State may terminate the Contract for default or any other just cause upon a 30-day written notification to the supplier.
- A.24.2. The State may terminate the Contract immediately, without a 30-day written notice to the supplier, when violations are found to be an impediment to the function of an agency and detrimental to its cause, when conditions preclude the 30-day notice, or when the Procurement Division Manager determines that an administrative error occurred prior to Contract performance.
- A.24.3. If the Contract is terminated, the State shall be liable only for payment for products and/or services delivered and accepted.

#### **A.25. Termination for Convenience**

- A.25.1. The State may terminate the Contract, in whole or in part, for convenience if the Procurement Division Manager determines that termination is in the State's best interest. The Procurement Division Manager shall terminate the contract by delivering to the supplier a Notice of Termination for Convenience specifying the terms and effective date of Contract termination. The Contract termination date shall be a minimum of 60 days from the date the Notice of Termination for Convenience is issued by the Procurement Division Manager.
- A.25.2. If the Contract is terminated, the State shall be liable only for products and/or services delivered and accepted, and for costs and expenses (exclusive of profit) reasonably incurred prior to the date upon which the Notice of Termination for Convenience was received by the supplier.

#### **A.26. Insurance**

The successful supplier(s) awarded the Contract shall obtain and retain insurance, including workers' compensation, automobile insurance, medical malpractice, and general liability, as applicable, or as required by State or Federal law, prior to commencement of any work in connection with the Contract. The supplier awarded the Contract shall timely renew the policies to be carried pursuant to this section throughout the term of the Contract and shall provide the procuring agency with evidence of such insurance and renewals.

**A.27. Employment Relationship**

The Contract does not create an employment relationship. Individuals performing services required by this Contract are not employees of the State of Oklahoma or the procuring agency. The supplier's employees shall not be considered employees of the State of Oklahoma nor of the procuring agency for any purpose, and accordingly shall not be eligible for rights or benefits accruing to state employees.

**A.28. Compliance with the Oklahoma Taxpayer and Citizen Protection Act of 2007**

By submitting a bid for services, the bidder certifies that they, and any proposed subcontractors, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. §1312 and includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security and available at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify).

**A.29. Compliance with Applicable Laws**

The products and services supplied under the Contract shall comply with all applicable Federal, State, and local laws, and the supplier shall maintain all applicable licenses and permit requirements.

**A.30. Special Provisions**

Special Provisions set forth in SECTION B apply with the same force and effect as these General Provisions. However, conflicts or inconsistencies shall be resolved in favor of the Special Provisions.

## **B. SPECIAL PROVISIONS**

**B.1.0.** This contract is for services in accordance within 74 O.S. Section 85.4.E.1 and in accordance with Section 85.12.B.3.

### **B.2.0. Definitions**

- B.2.1. The Department or Division is the Oklahoma Department of Transportation, Procurement Division..
- B.2.2. Response Documents include the Solicitation for Responses, these Instructions for Vendors, the Response Forms, other sample response forms, and any addenda issued prior to the receipt of Responses.
- B.2.3. Addenda are written or graphic instruments issued by the Department prior to the execution of the contract, which modify or interpret the Response Documents by additions, deletions, clarifications, or corrections.
- B.2.4. A Response is a complete and properly signed proposal to do the work or designated portion thereof for the sums stipulated therein, submitted in accordance with the Responding Documents.
- B.2.5. A Unit Price is an amount stated in the Response as a price per unit of measurement for materials or services as described in the Response Documents or in the proposed contract documents.
- B.2.6. A Vendor, Consultant, or Contractor is a person or entity that submits a Response.
- B.2.7. The Owner is the State of Oklahoma represented by the Department of Transportation.

### **B.3.0. Contract Period**

- B.3.1. The initial contract period shall be effective for one year from the date of award. Upon mutual agreement by the DEPARTMENT and the CONSULTANT, this contract may be renewed for another year, for up to two (2) renewals under the same terms and conditions and the awarded Consultant's response.

### **B.4.0. Form of Award**

- B.4.1. An Award will be considered completed upon the full execution of a Contract to the awarded Consultant and a Purchase Order issued.
- B.4.2. The DEPARTMENT reserves the right to award to multiple CONSULTANTS for this solicitation.
- B.4.2. A Lump Sum Contract and Purchase Order will be issued to the awarded CONSULTANT will be required to submit itemized invoices breaking out the billable charges.

### **B.6. Compensation**

- B.6.1. The CONSULTANT'S's bid prices for the pay item shall be considered compensation in full for the performance of the CONSULTANT's obligations under this contract.
- B.6.2. The billing shall not demand payment within any time period less than 30 days. Billing shall be submitted to the ODOT Multimodal Division, 200 NE 21<sup>st</sup> Street, Oklahoma City, OK 73105. Furthermore, the DEPARTMENT will only accept billings for completed and accepted job sites.

### **B.7.0. Response Documents**

- B.7.1. Copies
  - B.7.1.1 Vendors shall use complete sets of Response Documents in the Solicitation for Responses.
- B.7.2. Amendments
  - B.7.2.1 Amendments will be posted on the website,
  - B.7.2.2 Each Vendor shall acknowledge that all Amendments were received, by signing the Amendment Forms.

### **B.8.0. Insurance Requirements**

B.8.1. The CONSULTANT shall maintain at all times during the term of this Contract, with an insurance carrier reasonably acceptable to DEPARTMENT and authorized to conduct business in the State of Oklahoma, insurance coverage as set forth in this Article:

- B.8.1.1 Workers' Compensation Insurance as required by the statutes of the State of Oklahoma, and adequate (but in no event less than \$100,000) Employer's Liability Insurance.

- B.8.1.2 Public Liability and Property Damage Insurance covering all operations and activities hereunder in the following minimum limits (but in no event less than the statutory limits found at 51 Oklahoma Statutes, Section 151 et. seq. or successor or amendatory statutes):
- a) Bodily Injury Liability in the amount of not less than \$100,000 for injuries, including accidental death and products liability, to any one person, and subject to the same limit for each person, in an amount not less than \$1,000,000 for one occurrence.
  - b) Property Damage Liability in the amount of not less than \$100,000 for any one accident including products liability and an aggregate limit of \$1,000,000 per occurrence.
  - c) Combined aggregate Liability coverage shall not be less than \$2,000,000 (two million) for bodily injury, death, and property damage.
- B.8.1.3 A Comprehensive Business Auto policy with a minimum limit of not less than One Million. Dollar (\$1,000,000) combined single limit for bodily injury and property damage, providing coverage for at least any and all leased, owned, hired or non-owned vehicles used in any of CONSULTANT's activities pursuant to this agreement, with any self-insured retention not exceeding One Hundred Thousand Dollars (\$100,000). Any and all mobile equipment which is not covered under this Comprehensive Business Auto policy shall have said coverage provided for under the Comprehensive General Liability policy
- B.8.1.4 The CONSULTANT shall furnish DEPARTMENT with a certificate evidencing the existence of all such insurance coverage; and the certificates evidencing the existence of the insurance coverage specified in these specifications. Said insurance coverage shall provide that the State of Oklahoma is an additional named insured under said policy or policies and that said policy or policies cannot be canceled or materially modified except upon thirty (30) days advance written notice to DEPARTMENT. The foregoing provision regarding additional named insured shall not create or be deemed to create any liability on the part of said additional named insured which would not otherwise exist under the laws of the State of Oklahoma.
- B.8.1.5 The CONSULTANT shall provide the DEPARTMENT for the inclusion in the Contract file copies of certificates of insurance evidencing coverage as to both valuable papers and professional liability, said copies to be furnished to the DEPARTMENT within five (5) working days of execution of this Contract.

## **B.9.0 Taxation Status**

- B.9.1. Please be advised that all governmental entities of the State of Oklahoma, FEI 73-6017987 are exempt from Oklahoma sales or use taxes pursuant to title 68, O.S. 2001, section 1356(1). Therefore, direct purchases made by a state entity are exempt from sales tax whereas purchases made by a contractor in fulfilling a state contract are taxable to the contractor.

## **B.10.0 Communications during the Solicitation Process**

- B.10.1 Communication with anyone but the Buyer may result in a Vendor not being allowed to bid on this project.
- B.10.2. Questions may be submitted to [cjwilliams@odot.org](mailto:cjwilliams@odot.org) up to **Wednesday, June 14, 2023 by 2:00 P.M.**
- B.10.3. If a Consultant determines at any time that the Scope of Services or any matter relating thereto is not sufficiently described or explained in the RFP, or that any conflict or discrepancy exists between portions thereof or with any federal, state or local law, ordinance, rule, regulation or other standard or requirement, the Consultant shall submit a written request for clarification to the Buyer handling this Solicitation.
- B.10.4. Responses to questions and/or inquiries will be issued in the form of written addenda from Agencies to all parties who obtained a printed set of RFP documents. Consultants shall not rely upon any oral statements or conversations with the DEPARTMENT employees, agents, or representatives regarding the RFP documents. Responses to questions and/or inquiries will be issued in the form of written addenda. Communications with DEPARTMENT officials and/or staff other than those listed above may disqualify the CONSULTANT involved.

## **B.11. Duty to Inquire**

- B.11.1. The CONSULTANT has a duty to inquire into the terms, conditions and requirements of this RFP. Should an CONSULTANT discover discrepancies or omissions in the RFP, or should the CONSULTANT have doubt as

to meanings, the CONSULTANT shall notify the Buyer at the DEPARTMENT org prior to the date specified above for written questions. Should the DEPARTMENT find that a point in question is not clearly and fully set forth; a written Addendum will be sent to all "Document Holders of Record."

**B.12.0. Vendor's Representations and Prequalification**

- B.12.1. Each Vendor, by making a response, represents that:
- B.12.2. The Vendor has read and understands the Response Documents and the Response is made in accordance therewith.
- B.12.3. The submitted Response is based upon the materials required by the Response Documents without exception.

**B.13. Equal Employment Opportunity**

- B.13.1. In connection with the execution of this Contract, the CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age, or national origin. Such actions shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT further agrees to insert a similar revision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

**B.14. Hold Harmless Clause**

- B.14.1. The CONSULTANT shall indemnify and save harmless DEPARTMENT, their respective officers, employees and agents from all claims, suits, or actions of every kind and character made upon or brought against DEPARTMENT, their respective officers, employees and agents, for or on account of any injuries or damages received or sustained by any party or parties by or from acts of said CONSULTANT or its servants, agents and subcontractors, in doing the work and rendered the services Contracted for, or by or consequence of any negligence in operations or any improper material or equipment used, or by or on account of any act or omission of said CONSULTANT or his or its servants, agents and subcontractors. This hold harmless and indemnity obligation shall include attorney's fees, court costs and all other expenses incurred in the investigation and defense of any claim or suit.

**B.15. Labor**

- B.15.1. The Vendor shall comply with all State and Federal Laws in the employment and payment of labor.
- B.15.2. The Davis Bacon Wages does not apply for this project.

**B.16. Travel**

- B.16.1. Travel expenses to be paid based upon the Oklahoma State Travel Reimbursement Act (2020 Oklahoma Statutes Title 74 State Government §74-500.2).

**B.19. Disadvantaged Business Enterprise (DBE) Program Requirements**

- B.19.1 Three is no DBE requirement for this Solicitation.

**C. SOLICITATION SPECIFICATIONS**

**C.1.0. Purpose**

- C.1.1. The purpose of this work is to preform Subrecipients Management Comprehensive Reviews of all of ODOT's 5310 and 5311 subrecipients.

These reviews will be conducted on-site at the subrecipients headquarters. The reviews are a tool to ensure subrecipients management, operations and compliance with federal regulations. While complying itself to the current Oklahoma State Management Plan.

C.1.2 Contractor will not start work until directed by ODOT personnel.

**TASK:**

The consulting firm is encouraged to provide as much information as possible for each Task listed in their proposal, but each proposal must address Task 1 and 2.

**1. Project Management**

The consulting firm will be responsible for managing the project and ensuring project milestones are met. At a minimum, the proposal should address the following:

- a. Project Management Plan
- b. Communication Plan (subrecipient Oversight Checklist)
- c. Project schedule
- d. Quality Control and Quality Assurance
- e. Project Status Meetings
- i. Kick-off Meeting with all team task leaders and key personnel
- ii. Subrecipient Oversight Checklist (each Recipient)
- iii. Consultant PM and ODOT PM Coordination regarding all findings

**Deliverables:**

- Project Management Plan
- Subrecipient Oversight Checklist
- Project Schedule
- Correspondence/Meeting Documentation

**2. On-site Visit and review period**

During the on-site monitoring visit, an entrance conference will be conducted at the discretion of the Project Manager. Review areas that include program and financial components through 33 observations, discussions and samples for the period(s) under review. Discussions with appropriate subrecipient staff will take place to provide more meaningful reporting. The exit conference will identify findings; provide corrective actions, guidance and recommendations based on Project Manager and subrecipient observations and responses.

On-site and Review Deliverables:

- Written report of the findings
- Corrective Actions
- Due Date and tracking log for corrective actions

**3. Plan Purpose**

The consulting firm will be responsible for identifying challenges and opportunities specific to Oklahoma, engaging the Project Advisory Committee in the development of visions and goals for the plan, and identifying existing conditions.

**Existing Conditions**

The consulting firm will inventory and review state, local and regional plans that address active transportation, including but not limited to Oklahoma's 2045 Long Range Transportation Plan, ACOG's Encompass 2045, and INCOG's Connected 2045.

The consultant will compile and examine existing traffic safety and operation issues for pedestrians, bicyclists, and motorists, examine current funding sources, and develop socio-demographic analysis related to current need, demand, and potential for walking and biking. The consultant will prepare base maps for design and analysis work and use by ODOT for engagement activities.

**Plan Deliverables:**

- Plan Chapter(s) to address Plan Purpose and Existing Conditions

**4. Trends, Needs, and Issues**

The consultant will review, analyze, and document all of reviews and report on any trends, training needs, and potential future issues.

**Trend Deliverables:**

- A short report generated to help ODOT follow up or train subrecipients to avoid future issues

**D. EVALUATION**

**D.1.0. Evaluation Criteria**

D1.1. The RFP will be evaluated on the following criteria: Compliance with Specification, Cost, Qualification and Experience.

D.1.2. To be considered for award, the Respondent must provide the following information on its experience:

- D.1.2.1. Detailed summary (no more than 2 pages) describing its action plan;
- D.1.2.2. Contact information for a former/current client and date of work for one (1) projects of similar scope and size;
- D.1.2.3. Respondent’s organizational chart, including qualifications of staff; and
- D.1.2.4. **Three (3) professional letters of recommendation.**

Consultant response should include documentation that they satisfy all of the evaluation criteria listed above.

**D.2.0. Interviews**

D.2.1. The DEPARTMENT reserves the right to conduct Interviews with responding Consultants should it be deemed in the best interest of the DEPARTMENT.

**D.3.0. Negotiation**

D.3.1. The Department of Transportation may negotiate with vendors to get the best price, value, and terms. Once the Department of Transportation identifies the candidates, negotiations may take place through the Oklahoma Department of Transportation Purchasing Office. The Oklahoma Department of Transportation considers all costs and business terms negotiable. The Department of Transportation reserves the right to make an award to the lowest, responsive bid if it is deemed in the best interest of the Department.

**E. INSTRUCTIONS TO VENDOR**

**E.1.0. Important Information**

Important Dates	
Wednesday, June 14, 2023; 2:00 P.M. CST	Written Questions
Friday, June 16, 2023; 2:00 P.M. CST	Responses to Questions Posted on Website
Monday, July 10, 2023; 2:00 P.M. CST	Solicitation Closes

**E.2.0 Bidding Procedure**

**E.2.1. Modification, Withdrawal or Cancellation of Responses**



E.2.1. All the copies of the Response, and any other documentation required to be submitted with the Response shall be emailed to: [cjwilliams@odot.org](mailto:cjwilliams@odot.org).

E.2.2. The Vendor shall assume full responsibility for timely delivery at the location designated for receipt of Responses.

E.2.3. Responses received after the opening of Responses will not be considered and will be emailed unopened to the Vendor.

### E.3.0. General Requirements

E.3.1. Consultants shall submit Proposals that are clear, concise and complete. RFP shall demonstrate Consultants qualifications and experience to perform the Work. Consultants are responsible for becoming familiar with all sections of this RFP and shall fully inform themselves of all requirements in preparing their Proposals.

Proposals shall conform to the requirements of this RFP. Failure to submit information required by this RFP, or in the format specified, may be cause for disqualification of a Proposal as non-responsive. Only Proposals that address all of the required Work will be determined responsive.

The DEPARTMENT may reject any modification to this RFP, it may declare the Proposal non-responsive, it may evaluate the modification in accordance with the evaluation criteria, it may enter into negotiation with the Offeror or it may accept the modification to the RFP.

### E.4.0. Consideration of Responses

E.4.1. Emailed responses will be opened immediately after the time set for receipt of Responses. This Solicitation is being bid out as an RFP. Vendors may receive a copy of the response tabulation on the solicitation website after a Purchase Order has been awarded.

## F. CHECKLIST

- \_\_\_\_\_ Completed Responding Bidder Information page
- \_\_\_\_\_ Completed and Signed Non-Collusion Certification page
- \_\_\_\_\_ Completed and Signed Solicitation Request
- \_\_\_\_\_ Completed Proposer's Statutory and Federal Requirement Documents (Exhibits "A" - "B")
- \_\_\_\_\_ Completed and Signed Addenda and Amendment Receipts
- \_\_\_\_\_ Read Section G.2 regarding communication during Solicitation Period
- \_\_\_\_\_ Include with Response - Detailed Summary
- \_\_\_\_\_ Include with Response - Contact Information
- \_\_\_\_\_ Include with Response – Vendor's Organizational Chart
- \_\_\_\_\_ Include with Response – Recommendation Letters

## G. OTHER

### G.1. Forms

G.1.1. Solicitation Request

G.1.2. Solicitation Specifications

### G.2. Communications during the Solicitation Process

G.2.1. Communication with anyone but the Buyer may result in a Vendor not being allowed to bid on this project.

## H. PRICE AND COST

### H.1. Pricing Submission

H.1.1. Vendors are to complete the attached Solicitation Request form (see Solicitation Package) including signature and include it with your response.

# EXHIBITS

**OKLAHOMA DEPARTMENT OF TRANSPORTATION  
STATUTORY CERTIFICATION**

\_\_\_\_\_, of lawful age, hereby certifies under the laws of the United States and the State of Oklahoma, states:

1. (S)he is the duly authorized agent of \_\_\_\_\_, the Contractor under the Contract which is attached to this statement, for the purpose of certifying the facts pertaining to the giving of things of value to government personnel in order to procure said Contract;
2. (S)he is fully aware of the facts and circumstances surrounding the making of the Contract to which this statement is attached and has been personally and directly involved in the proceedings leading to the procurement of said Contract;
3. Neither the Contractor nor anyone subject to the Contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring the Contract to which this statement is attached;
4. That the Contractor has registered and fully participates in the Status Verification system, as required by Title 25 O.S. § 1313(B)(1), to verify the work eligibility status of all new employees of the Contractor; and

The Contractor further certifies that no person who has been involved in any manner in the development of that Contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said Contract.

If this Contract is for professional services and if the final product is a written proposal, report, or study, the Contractor further certifies that (s)he has not previously provided the state agency with a final product that is a substantial duplication of the final product of the proposed Contract.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**OKLAHOMA DEPARTMENT OF TRANSPORTATION  
ATTACHMENT D1  
US DOT CERTIFICATION FOR FEDERAL-AID CONTRACTS**

The Prospective Participant, \_\_\_\_\_, (Vendor), certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative contract.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report lobbying", in accordance with its instructions.
3. The vendor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

**OKLAHOMA DEPARTMENT OF TRANSPORTATION  
ATTACHMENT D2  
US DOT CERTIFICATION OF ELIGIBILITY**

The Prospective Participant, \_\_\_\_\_, (Vendor), certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, states:

- a) That he or she is the Prospective Participant or fully authorized agent of the Prospective Participant in this project which involves federal funding, and has full knowledge and authority to make this certification.
- b) That, except as noted below, \_\_\_\_\_  
(Prospective Participant)  
or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor or accountant, project superintendent, or any person in a position involving the administration of federal funds:
- a. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; and
  - b. has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years; and
  - c. does not have a proposed debarment pending; and
  - d. has not had any public transaction (federal, state, or local) terminated within the preceding three (3) years for cause or default; and
  - e. has not been indicted, convicted, or had a civil judgment rendered against any of the aforementioned by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years, except:

\_\_\_\_\_

**(IF NONE, SO STATE BY ENTERING THE WORD NONE)** For any exception noted, indicate on the reverse side of this page to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

**OKLAHOMA DEPARTMENT OF TRANSPORTATION  
ATTACHMENT D3  
TITLE VI OF THE CIVIL RIGHTS ACT OF 1964  
ASSURANCES**

(hereinafter referred to as the Vendor) HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives to the end that, in accordance with the Act, regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, age, national origin, disability/handicap, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Vendor receives Federal financial assistance from the Department of Transportation, including the Federal Highway Administration; and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by Subsection 21.7(a) (1) of the Regulations, a copy of which is attached.

More specifically and without limiting the above general assurance, the Vendor hereby gives the following specific assurances with respect to its Federal-aid Highway Program:

1. That the Vendor agrees that each "program" and each "facility," as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted or will be (with regard to a "facility") operated in compliance with all requirements imposed by or pursuant to the Regulations.
2. That the Vendor shall insert the following notification in all solicitations for bids for work or materials subject to the regulations made in connection with the Federal-aid Highway Program and, in adapted form, in all proposals for negotiated agreements:

in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4, and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation, issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated

against on the grounds of race, color, sex, age, national origin, religion, disability/handicap, or income status in consideration for an award.

3. That the Vendor shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the clauses of Appendix B of this assurance shall be included, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Vendor receives federal financial assistance to construct a facility or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Vendor receives federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.
7. That the Vendor shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Vendor with other parties (a) for the subsequent transfer of real property acquired or improved under the Federal-aid Highway Program; and (b) for the construction or use of, or access to space on, over, or under, real property acquired or improved under the Federal-aid Highway Program.
8. That this assurance obligates the Vendor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein, or structures or improvements thereon; in which case the assurance obligates the Vendor or any transferee for the longer of the following periods: (a) the period during which the property used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; of (b) the period during which the Vendor retains ownership or possession of the property.
9. The Vendor shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom he or she delegates specific authority, to give reasonable guarantee that it, other recipients, sub-grantees, vendors, sub-contractors, transferees, successors in interest; and other participants of federal financial assistance under such program will comply with all requirements imposed by or pursuant to the Act, the Regulations, and this assurance.



10. The Vendor agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts, or other federal financial assistance extended after the date hereof to the Vendor by the Department of Transportation under the federal-aid Highway Program and is binding on it, other recipients, sub-grantees, vendors, sub-contractors, transferees, successors in interest, and other participants in the federal-aid Highway Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Vendor.

Attachments:

Appendices A, B, C, and D

## APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “vendor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes Vendors) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor (hereinafter includes Vendors) with regard to the work performed by it during the contract, shall comply with the Americans with Disabilities Act Non-Discrimination Clause referenced at <https://www.ok.gov/odot/documents/ADA%20Clause.pdf> and will not discriminate on the grounds of race, color, sex, age, national origin, religion, disability/handicap, or income status, in the selection and retention of sub-contractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

- a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
- 6. Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

**APPENDIX B**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

**NOW, THEREFORE**, the U.S. Department of Transportation as authorized by law and upon the condition that the Grantee will accept title to the lands and maintain the project constructed thereon in accordance with the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. 113-6, March 26, 2013), the Regulations for the Administration of FY 2013 TIGER Discretionary Grant Program, and the policies and procedures prescribed by the Federal Highway Administration (FHWA) of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Grantee all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

**(HABENDUM CLAUSE)**

**TO HAVE AND TO HOLD** said lands and interests therein unto Grantee and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Grantee, its successors and assigns.

The Grantee, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person on the grounds of race, color, sex, age, national origin, religion, disability/handicap, or income status shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the Grantee will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the

absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.

**APPENDIX C**

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Grantee pursuant to the provisions of Assurance 7(a):

1. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  - A. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
2. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Grantee will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
3. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Grantee will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Grantee and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## APPENDIX D

During the performance of this contract, the Vendor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Vendor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### Pertinent Non-Discrimination Authorities:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49CFR Part 21.
2. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
3. Federal-Aid highway Act of 1973, (29 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987, (PL 100-209), Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and vendors, whether such programs or activities of the Federal-aid recipients, sub-recipients and Vendors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. § § 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

9. The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).



**OKLAHOMA DEPARTMENT OF TRANSPORTATION  
ATTACHMENT D4  
DRUG FREE WORKPLACE**

1. The Vendor, \_\_\_\_\_, certifies that (s)he will continue to provide a drug free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Vendor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - b. Establishing an ongoing drug free awareness program to inform employees about:
    - i. The dangers of drug abuse in the workplace;
    - ii. The Vendor's policy of maintaining a drug free workplace;
    - iii. Any available drug counseling, rehabilitation and employee assistance programs; and
    - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  - c. Making it a requirement that each employee that will be engaged in the performance of the project be given a copy of the statement required by paragraph a;
  - d. As a condition of employment under the project, the employee will:
    - i. Abide by the terms of the statement, and;
    - ii. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

- e. Notifying the Department and the Federal Highway Administration in writing, within ten (10) calendar days after receiving notice under subparagraph (d)(ii) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every project officer or other designee on whose project activity the convicted employee was working, unless the Federal Highway Administration has designated a central point for the receipt of such notices. Notice shall include the identification numbers of each affected project.
- f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(ii), with respect to any employee who is so convicted.
- g. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973; as amended, or;
- h. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- i. Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

**OKLAHOMA DEPARTMENT OF TRANSPORTATION  
DISADVANTAGED BUSINESS ENTERPRISES POLICY STATEMENT**

1. It is the policy of the Department to ensure that Disadvantaged Business Enterprises (D.B.E.) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this Contract. Consequently the D.B.E. requirements of 49 CFR Part 26 applies to this Contract. These provisions apply to all federal-aid projects, regardless if there is a DBE goal.
2. The Department or its Vendor which are recipients of Federal-aid funds agree to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and sub-contracts financed in whole or in part with federal funds provided under this Contract. In this regard, the Department and its Vendors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts.
3. The Vender must follow the requirements outlined in the DBE Program Manual, located at [https://www.ok.gov/odot/Doing\\_Business/Civil\\_Rights/Civil\\_Rights - Publications, Posters and Brochures.html](https://www.ok.gov/odot/Doing_Business/Civil_Rights/Civil_Rights_-_Publications,_Posters_and_Brochures.html).
4. Failure to carry out the requirements set forth above shall constitute a breach of Contract, and, after the notification of the Department, may result in termination of the Contract by the Department or other such remedy as the Department deems appropriate.



## FTA CONTRACT CLAUSES – OPERATIONS/MANAGEMENT

**A. No Federal Government Commitment or Liability to Third Parties**

**B.A.1.** Except as the Federal Government expressly consents in writing, the Contractor agrees that:

**B.A.1.1.** The Federal Government does not and shall not have any commitment or liability related to the Underlying Agreement, to any Third Party Participant at any tier, or to any other person or entity that is not a party (FTA or the Contractor) to the Underlying Agreement, and

**B.A.1.2.** Notwithstanding that the Federal Government may have concurred in or approved any Solicitation or Third Party Agreement at any tier that may affect the Underlying Agreement, the Federal Government does not and shall not have any commitment or liability to any Third Party Participant or other entity or person that is not a party (FTA or the Contractor) to the Underlying Agreement.

**B. False or Fraudulent Statements or Claims.**

**B.B.1.** Civil Fraud. The Contractor acknowledges and agrees that:

**B.B.1.1.** Federal laws, regulations, and requirements apply to itself and its Underlying Agreement, including the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31.

**B.B.1.2.** By executing the Underlying Agreement, the Contractor certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Contractor provides to the Federal Government.

**B.B.1.3.** The Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Contractor presents, submits, or makes available any false, fictitious, or fraudulent information.

**B.B.2.** Criminal Fraud. The Contractor acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Contractor provides a false, fictitious, or fraudulent claim, statement, submission, certification assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

**C. Access to Contractor and Third Party Participant Records.**

**B.C.1.** The Contractor agrees and assures that each Subcontractor, if any, will agree to:

**B.C.1.1.** Provide, and require its Third Party Participants at each tier to provide, sufficient access to inspect and audit records and information related to its Award, the accompanying Underlying Agreement, and any Amendments thereto to the U.S. Secretary of Transportation or the Secretary's duly authorized representatives, to the Comptroller General of the United States, and the Comptroller General's duly authorized representatives, and to the Contractor and each of its Subcontractors,

**B.C.1.2.** Permit those individuals listed above to inspect all work and materials related to its Award, and to audit any information related to its Award under the control of the Contractor or Third Party Participant within books, records, accounts, or other locations, and

**B.C.1.3.** Otherwise comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the applicable U.S. DOT Common Rules.

**D. Federal Changes**

**B.D.1.** The Contractor shall at all times comply with all applicable Federal regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement as amended or promulgated from time to time during the term of this contract.

**E. Civil Rights Requirements**

- B.E.1.** The Contractor agrees that it must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Contractor or a federal program, including the Tribal Transit Program or the Indian Tribe Contractor, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service.
- B.E.2.** Nondiscrimination in Federal Public Transportation Programs. The Contractor agrees to, and assures that it and each Third Party Participant, will:
- B.E.2.1.** Prohibit discrimination on the basis of race, color, religion, national origin, sex (including gender identity), disability, or age.
- B.E.3.** Prohibit the:
- B.E.3.1.** Exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332,
- B.E.3.2.** Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332, or
- B.E.3.3.** Discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in.
- B.E.4.** Follow:
- B.E.4.1.** The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Contractors," to the extent consistent with applicable federal laws, regulations, requirements, and guidance, and other applicable federal guidance that may be issued, but
- B.E.4.2.** FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its Underlying Agreement supported with federal assistance under the Tribal Transit Program.
- B.E.5.** Nondiscrimination – Title VI of the Civil Rights Act. The Contractor agrees to, and assures that each Third Party Participant, will:
- B.E.5.1.** Prohibit discrimination on the basis of race, color, or national origin,
- B.E.6.** Comply with:
- B.E.6.1.** Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq.,
- B.E.6.2.** U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and
- B.E.6.3.** Federal transit law, specifically 49 U.S.C. § 5332, and
- B.E.7.** Follow:
- B.E.7.1.** The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Contractors," to the extent consistent with applicable federal laws, regulations, requirements, and guidance,
- B.E.7.2.** U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and
- B.E.7.3.** All other applicable federal guidance that may be issued.
- B.E.8.** Equal Employment Opportunity.
- B.E.8.1.** Federal Requirements and Guidance. The Contractor agrees to, and assures that each Third Party Participant will, prohibit, discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin, and:
- B.E.8.2.** Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.,

- B.E.8.3.** Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs,
- B.E.8.4.** Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement,
- B.E.8.5.** FTA Circular 4704.1 "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Contractors," and
- B.E.8.6.** Follow other federal guidance pertaining to EEO laws, regulations, and requirements, and prohibitions against discrimination on the basis of disability,
- B.E.8.7.** Specifics. The Contractor agrees to, and assures that each Third Party Participant will:
- B.E.8.8.** Prohibited Discrimination. Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their race, color, religion, national origin, disability, age, sexual orientation, gender identity, or status as a parent, as provided in Executive Order No. 11246 and by any later Executive Order that amends or supersedes it, and as specified by U.S. Department of Labor regulations,
- B.E.8.9.** Affirmative Action. Take affirmative action that includes, but is not limited to:
  - B.E.8.9.1. Recruitment advertising, recruitment, and employment,
  - B.E.8.9.2. Rates of pay and other forms of compensation,
  - B.E.8.9.3. Selection for training, including apprenticeship, and upgrading, and
  - B.E.8.9.4. Transfers, demotions, layoffs, and terminations, but
- B.E.8.10.** Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer," and

#### **F. Incorporation Of Federal Transit Administration (FTA) Terms**

- B.F.1.** The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the most current FTA Circular 4220, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NCTD requests which would cause NCTD to be in violation of the FTA terms and conditions.

#### **G. Energy Conservation**

- B.G.1.** The Contractor agrees to, and assures that its Subcontractors, if any, will comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 *et seq.*, and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

#### **H. Right of the Federal Government to Terminate**

- B.H.1.** Justification. After providing written notice to the Contractor, the Contractor agrees that the Federal Government may suspend, suspend then terminate, or terminate all or any part of the federal assistance for the Award if:
  - B.H.1.1.** The Contractor has failed to make reasonable progress implementing the Award,
  - B.H.1.2.** The Federal Government determines that continuing to provide federal assistance to support the Award does not adequately serve the purposes of the law authorizing the Award, or
  - B.H.1.3.** The Contractor has violated the terms of the Underlying Agreement, especially if that violation would endanger substantial performance of the Underlying Agreement.
- B.H.2.** Financial Implications. In general, termination of federal assistance for the Award will not invalidate obligations properly incurred before the termination date to the extent that the obligations cannot be

anceled. The Federal Government may recover the federal assistance it has provided for the Award, including the federal assistance for obligations properly incurred before the termination date if it determines that the Contractor has misused its federal assistance by failing to make adequate progress, failing to make appropriate use of the Project property, or failing to comply with the Underlying Agreement, and require the Contractor to refund the entire amount or a lesser amount, as the Federal Government may determine including obligations properly incurred before the termination date.

- B.H.3.** Expiration of the Period of Performance. Except for a Full Funding Grant Agreement, expiration of any period of performance established for the Award does not, by itself, constitute an expiration or termination of the Award; FTA may extend the period of performance to assure that each Formula Project or related activities and each Project or related activities funded with “no year” funds can receive FTA assistance to the extent FTA deems appropriate.

## **I. Debarment and Suspension**

- B.I.1.** The Contractor agrees to the following:

**B.I.1.1.** It will comply with the following requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200.

**B.I.1.2.** It will not enter into any arrangement to participate in the development or implementation of the Underlying Agreement with any Third Party Participant that is debarred or suspended except as authorized by:

B.I.1.2.1. U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200,

B.I.1.2.2. U.S. OMB regulatory guidance, “Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180, including any amendments thereto,

B.I.1.2.3. Executive Orders No. 12549, “Uniform Suspension, Debarment or Exclusion of Participants from Procurement or Nonprocurement Activity,” October 13, 1994, 31 U.S.C. § 6101 note, as amended by Executive Order No. 12689, “Debarment and Suspension,” August 16, 1989, 31 U.S.C. § 6101 note, and

B.I.1.2.4. Other applicable federal laws, regulations, or guidance regarding participation with debarred or suspended Contractors or Third Party Participants.

**B.I.1.3.** It will review the U.S. GSA “System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200.

**B.I.1.4.** It will include, and require each Third Party Participant to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

B.I.1.4.1. Complies with federal debarment and suspension requirements, and

B.I.1.4.2. Reviews the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200.

**B.I.1.5.** If the Contractor suspends, debar, or takes any similar action against a Third Party Participant or individual, the Contractor will provide immediate written notice to the:

B.I.1.5.1. FTA Regional Counsel for the Region in which the Contractor is located or implements the Underlying Agreement,

B.I.1.5.2. FTA Headquarters Manager that administers the Grant or Cooperative Agreement, or

B.I.1.5.3. FTA Chief Counsel.

## **J. Disputes, Breaches, Defaults, or Other Litigation**

- B.J.1.** FTA Interest. FTA has a vested interest in the settlement of any violation of federal law, regulation, or disagreement involving the Award, the accompanying Underlying Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.



- B.J.2.** Notification to FTA. If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify the FTA Chief Counsel, or FTA Regional Counsel for the Region in which the Contractor is located. (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- B.J.3.** Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
- B.J.4.** If the Contractor has credible evidence that a Principal, Official, Employee, Agent, or Third Party Participant of the Contractor, or other person has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, or has committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance, the Contractor must promptly notify the U.S. DOT Inspector General, in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Contractor is located.
- B.J.5.** Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the Contractor may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Contractor receives FTA's prior written concurrence.
- B.J.6.** Enforcement. The Contractor must pursue its legal rights and remedies available under any third party agreement, or any federal, state, or local law or regulation.

#### **K. Lobbying Restrictions**

- B.K.1.** The Contractor agrees that neither it nor any Third Party Participant will use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the Underlying Agreement, including any extension or modification, according to the following:
  - B.K.1.1.** Laws, Regulations, Requirements, and Guidance. This includes:
    - B.K.1.1.1. The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended,
    - B.K.1.1.2. U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. part 20, to the extent consistent with 31 U.S.C. § 1352, as amended, and
    - B.K.1.1.3. Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature, and
  - B.K.1.2.** Exception. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Contractor's or SubContractor's proper official channels.

#### **L. Clean Air Act**

- B.L.1.** (42 U.S.C. §§ 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 – 1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 – 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

#### **M. Clean Water**

- B.M.1.** The Common Grant Rules specifically prohibit the use of facilities included in the EPA "List of Violating Facilities," in the performance of any third party contract at any tier exceeding \$100,000. The contractor must also comply with all applicable standards, orders, or regulations issued under

Section 508 of the Clean Water Act, as amended, 33 U.S.C. Section 1368, and other applicable requirements of the Clean Water Act, as amended, 33 U.S.C. Sections 1251 through 1377.

**N. Fly America**

**B.N.1.** The air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 – 301-10.143.

**O. Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701 – 3708)**

**B.O.1.** Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. part 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**P. Disadvantaged Business Enterprises**

**B.P.1.** The Contractor acknowledges and understands that the statutory and regulatory provisions relating to disadvantaged business enterprises (DBE) differ significantly between FTA and FRA, including Section 1101(b) of the FAST Act (23 U.S.C. § 101 note) and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, both of which apply to FTA, but not to FRA.

**B.P.2.** FRA is not authorized to use FTA's DBE regulations, and consequently the Contractor agrees to comply with the statutory and regulatory DBE provisions that apply to federal assistance provided by FTA when using that federal assistance for purchases.

**B.P.3.** The Contractor agrees to use the "contracting with small and minority firms, women's business enterprise" provisions of the applicable U.S. DOT Common Rules.

**Q. RECYCLED PRODUCTS**

**B.Q.1.** 42 U.S.C. 6962

**B.Q.2.** 40 CFR Part 247

**B.Q.3.** Executive Order 12873

**B.Q.4. Applicability to Contracts:** The Recycled Products requirements apply to all contracts for items designated by the EPA, when the Contractor procures \$10,000 or more of one (1) of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds.

**B.Q.5. Flow down Requirements:** These requirements flow down to all Contractor and sub-Contractor tiers.

**B.Q.6. Recovered Materials -** The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247. The Contractor agrees to comply with the U.S. Environmental Protection Agency (US EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 CFR part 247.

**R. ADA ACCESS REQUIREMENTS**

**B.R.1.** 49 U.S.C. § 5301, 29 U.S.C. § 794, 42 U.S.C. § 12101

**B.R.2.** Applicability to Contracts: The Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

**S. Public Transportation Employee Protective Arrangements.**

**B.S.1.** As a condition of award of federal assistance appropriated or made available for FTA programs involving public transportation operations, the Recipient agrees to comply and assures that each Third Party Participant will comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

**B.S.2.** (1) U.S. DOL Certification. When its Award, the accompanying Underlying Agreement, or any Amendments thereto involve public transportation operations and are supported with federal assistance appropriated or made available for 49 U.S.C. §§ 5307 – 5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, 5338(b), or 5339, or former 49 U.S.C. §§ 5308, 5309, 5312, or other provisions of law as required by the Federal Government, U.S. DOL must provide a certification of employee protective arrangements before FTA may provide federal assistance for that Award. The Recipient agrees that the certification issued by U.S. DOL is a condition of the Underlying Agreement and that the Recipient must comply with its terms and conditions. 82

**B.S.3.** (2) Special Warranty. When its Underlying Agreement involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The Recipient agrees that its U.S. DOL Special Warranty is a condition of the Underlying Agreement and the Recipient must comply with its terms and conditions.

**B.S.4.** (3) Special Arrangements for Underlying Agreements for Federal Assistance Authorized under 49 U.S.C. § 5310. The Recipient agrees, and assures that any Third Party Participant providing public transportation operations will agree, that although pursuant to 49 U.S.C. § 5310, and former 49 U.S.C. §§ 5310 or 5317, FTA has determined that it was not “necessary or appropriate” to apply the conditions of 49 U.S.C. § 5333(b) to any Subrecipient participating in the program to provide public transportation for seniors (elderly individuals) and individuals with disabilities, FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate.

**T. Charter Service.**

**B.T.1.** (a) Prohibitions. The Recipient agrees that neither it nor any Third Party Participant involved in the Award will engage in charter service, except as permitted under federal transit laws, specifically 49 U.S.C. § 5323(d), (g), and (r), FTA regulations, “Charter Service,” 49 CFR Part 604, any other federal Charter Service regulations, federal requirements, or federal guidance.

**B.T.2.** (b) Exceptions. Apart from exceptions to the Charter Service restrictions in FTA’s Charter Service regulations, FTA has established the following additional exceptions to those restrictions: 88

**B.T.2.1.** (1) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with federal assistance appropriated or made available for 49 U.S.C. § 5307 to support a Job Access and Reverse Commute (JARC)- type Project or related activities that would have been eligible for assistance under repealed 49 U.S.C. § 5316 in effect in Fiscal Year 2012 or a previous fiscal year, provided that the Recipient uses that federal assistance for FTA program purposes only; and

**B.T.2.2.** (2) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with the federal assistance appropriated or made available for 49 U.S.C. § 5310 to support a New Freedom-type Project or related activities that would have been eligible for federal assistance under repealed 49 U.S.C. § 5317 in effect in Fiscal Year 2012 or a previous

fiscal year, provided the Recipient uses that federal assistance for FTA program purposes only.

- B.T.3.** (c) Violations. If it or any Third Party Participant engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures and remedies, including withholding an amount of federal assistance as provided in FTA's Charter Service regulations, 49 CFR Part 604, appendix D, or barring it or the Third Party Participant from receiving federal assistance provided in 49 U.S.C. chapter 53, 23 U.S.C. § 133, or 23 U.S.C. § 142.

**U. School Bus Operations.**

- B.U.1.** (a) Prohibitions. The Recipient agrees that neither it nor any Third Party Participant that is participating in its Award will engage in school bus operations exclusively for the transportation of students or school personnel in competition with private school bus operators, except as permitted by federal transit laws, 49 U.S.C. § 5323(f) or (g), FTA regulations, "School Bus Operations," 49 CFR Part 605, and any other applicable federal "School Bus Operations" laws, regulations, requirements, or applicable federal guidance.
- B.U.2.** (b) Violations. If a Recipient or any Third Party Participant has operated school bus service in violation of FTA's School Bus laws, regulations, or requirements, FTA may require the Recipient or Third Party Participant to take such remedial measures as FTA considers appropriate, or bar the Recipient or Third Party Participant from receiving federal transit assistance.

**V. Substance Abuse.**

- B.V.1.** (a) Drug-Free Workplace. The Recipient agrees to: (1) Comply with the Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. § 8103, et seq.; (2) Comply with U.S. DOT regulations, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)," 49 CFR Part 32; and (3) Follow and facilitate compliance with U.S. OMB regulatory guidance, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)," 2 CFR Part 182, particularly where the U.S. OMB regulatory guidance supersedes comparable provisions of 49 CFR Part 32.
- B.V.2.** (b) Alcohol Misuse and Prohibited Drug Use.
- B.V.3.** (1) Requirements. The Recipient agrees to comply and assures that its Third Party Participants will comply with:
- B.V.3.1.** (i) Federal transit laws, specifically 49 U.S.C. § 5331;
- B.V.3.2.** (ii) FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655; and
- B.V.3.3.** (iii) Applicable provisions of U.S. DOT regulations, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," 49 CFR Part 40.
- B.V.4.** (2) Remedies for Non-Compliance. The Recipient agrees that if FTA determines that the Recipient or a Third Party Participant receiving federal assistance under 49 U.S.C. chapter 53 is not in compliance with 49 CFR Part 655, the Federal Transit Administrator may bar that Recipient or Third Party Participant from receiving all or a portion of the federal transit assistance for public transportation it would otherwise receive.

Assurances and Certifications of the Vendor

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) §

\_\_\_\_\_, of lawful age, hereby certifies under the laws of the United States and the State of Oklahoma, states:

That he or she, whether as an individual, a member of said co-partnership or officer of said Corporation is the fully authorized agent of \_\_\_\_\_ (Vendor), further identified as the prospective participant in this project which involves Federal funding, and has full knowledge and authority to make the assurances and certifications associated with the Federal Transit Administration Contract Requirements cited in Exhibit "C" of the Solicitation Package.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date