REQUEST FOR PROPOSALS FOR A MEDICAL QUALIFICATION ASSURANCE OFFICER FOR THE INDIANA MEDICAL QUALIFICATION (MQ) PROGRAM

I. INTRODUCTION

The Indiana Council on Specialized Transportation (INCOST) is soliciting proposals through this Request for Proposals (RFP) from qualified health care providers (as defined in Section III of this RFP) for a procurement on behalf of RLS and Associates, Inc., dba Indiana RTAP, hereinafter referred to as "Purchaser." The purpose of this procurement is to provide direct services for the Indiana Medical Qualification (MQ) Program, and other applicable programs, to ensure the health and safety of Indiana's safety-sensitive transit employees and the traveling public.

In 2011, the Indiana Department of Transportation (INDOT) required that all rural subrecipients adopt a prescription (Rx) and over-the-counter (OTC) medication policy after the National Transportation Safety Board and the FTA expressed concerns over the potential risks of Rx and OTC medication use by transit operators. Recognizing that Rx/OTC use is only a small part of the medical issues of concern, the program was expanded into a comprehensive medical qualification program. INDOT implemented this program for all Section 5311 recipients. The program established standards for consistency regarding the medical standards utilized for evaluating safety-sensitive employees required to hold a CDL or the "For Hire Endorsement," and who operate rural public transportation vehicles. The Medical Qualification Program follows the standards set forth in the Federal Motor Carrier Safety Administrations (FMCSA) regulations 49 CFR Part 391.41, as amended, for all public transportation operators <u>regardless of license type.</u>

The program is now in its fourteenth year and has evolved from a program that was administered by one provider who handled all exams, determinations, and appeals for the entire state of Indiana into a Regional-based program with one Medical Quality Assurance Officer (MQAO). The MQAO now provides oversight of the entire program, administers guidance, and is the final word on fitness-for-duty determinations. Due to the administrative and travel burdens for both the provider and the transit system, the program is now provided on a Regional basis with service providers located in each Region. Each of the Regions has a Medical Determination Officer (MDO) to oversee assessments performed within the Region. These positions are separate from the services of the MQAO sought under this procurement, which will continue to provide quality assurance and administrative guidance for the program. **A separate RFP is also simultaneously being released for those wishing to provide service.**

A. Responsibilities

For purposes of this RFP, the MQAO will be responsible for determining all appeals, providing expert testimony in potential legal situations, providing technical assistance when needed, and providing training and education for the Regional providers. Each Regional provider must have an MDO on staff, who is responsible for all medical determinations, administrative requirements, and general oversight of the program under their service.

B. Required Scope of Services

The scope of services for the provision of the Indiana Medical Qualification Program is separated into Regions in order to ease the travel burden of the current public transit systems, as shown in Exhibit D. These Regions include, but are not limited to: the Northeast Region, the Northwest Region, the East Region, the Southwest Region, the Southeast Region, and the Central Region. INCOST will also consider different Regional definitions, however, the primary goal is to ensure that all transit systems are within close proximity of a Regional site. Regional providers may perform fitness-for-duty assessments from one or more established medical facilities in the Region or through on-site assessments at transit facilities. Qualified Proposers may **ONLY** submit bids for the MQAO position in response to this RFP.

This RFP includes the provision of MQAO services, including, but not limited to, the provision of oversight and guidance to all Medical Determination Officers (MDOs). MDOs are used in the state of Indiana in the following situations: 1) as part of the hiring process; 2) as a result of compliance with the Indiana Prescription and Over-the-Counter (Rx/OTC) Medication Policy; 3) upon a safety-sensitive employee's return from absences as defined by the Indiana MQ Policy; 4) following a qualifying accident as defined by the Indiana MQ Policy or other applicable policies; and 5) other circumstances as may be required.

The project will also include other related services as defined in Exhibit A, Scope of Services of this RFP, and will be conducted for all rural transit entities in the State. The number and location of drivers subject to physical examinations may vary during the period of the contract. A list of transit systems by location and estimated number of safety-sensitive employees is provided in Exhibit C. The MQAO will provide guidance and technical assistance to each of the Regional MDOs to ensure consistency and quality of services over all Regional locations, providing second opinions, conducting appeals, and answering the general questions of the Regional chief medical officers.

All services requested of the selected Proposer shall conform to the requirements specified in the United States Department of Transportation's (U.S. DOT's) "Physical Qualifications for Drivers" 49 CFR Part 391.41, and the Indiana Department of Transportation's model Medical Qualification and Rx/OTC Medication policies included with this RFP as attachments E.

C. MQAO Agreement

Indiana RTAP will execute an agreement with the successful Proposer(s), (also referred to herein as the "Medical Quality Assurance Officer or MQAO"), for a period commencing January 1, 2026 and extending through December 30, 2029. The first Purchaser contract is anticipated to be in place no later than March 1, 2026, with all contracts to be executed no later than February 30, 2026.

The agreement shall be a reimbursement type contract inclusive of fee for an initial period of twenty-four (24) months with an option of renewing said agreement with the MQAO on an annual basis for up to two (2) additional years, subject to the approval of the Indiana Department of Transportation (INDOT), available funding, and continued participation by member agencies. The contract shall not exceed a total of four (4) years in duration.

It is understood by all parties that INCOST is only acting on behalf of the transit systems and is not directly responsible for any of the program costs. It is understood by all parties that the costs of services rendered (i.e., the costs of examinations) will be paid by each Purchaser/transit property listed in Exhibit B of the RFP for its respective services. **A separate contract will be required between the MQAO and each individual Purchaser for the Purchaser's respective services**. A sample contract that may be used to meet this criterion is included as Exhibit C. While INCOST will endorse the MQAO to Purchasers, it is understood that INCOST is not liable for these costs or for the services rendered by the MQAO.

D. RFP Sections and Questions

The following sections of this RFP contain instructions for submitting required information and criteria for selection of an MQAO proposing to provide the required Scope of Services.

- Exhibit A – Scope of Services
- Exhibit B – Cost Sheet
- Exhibit C – Transit System Information
- Exhibit D – Regional Map
- Exhibit E – Federal Clauses
- Exhibit F – Non-Collusion Affidavit
- Exhibit G – Restrictions on Lobbying

All questions regarding this RFP should be submitted by 4 p.m. December 9, 2025 and addressed to:

INCOST
c/o Vicky Warner, RTAP Manager
Indiana Rural Transit Assistance Program
811 Lindsey St.
Columbus, IN 47203
vwarner@rlsandassoc.com
Phone: (812)799-3360

II. SUBMISSION INSTRUCTIONS

Sealed proposals must be received by INCOST in accordance with these instructions by 4 p.m. December 9, 2025, at which time all proposals properly received and in proper form shall be publicly opened. No proposals will be opened until the advertised time of opening. Any proposal received after the time and date specified in this section will not be considered.

Questions concerning this RFP must be received by 4 p.m. December 1, 2025. No questions will be accepted after that time. All questions should be submitted to Vicky Warner, RTAP Manager, at vwarner@rlsandassoc.com.

This procurement is governed by all applicable State and Federal statutes and regulations, including Office of Management and Budget Circular 2 CFR part 200, and FTA Circular 4220.1F, requiring, among other things, that professional service awards be made according to qualifications and approved criteria, which become a part of the Contract between the Purchasers and the successful Proposer.

A. Date, Time, Address, and Number of Copies.

MQAO applicants shall submit one (1) original by mail or you can email your proposal submission to vwarner@rlsandassoc.com, and it must be received on or before 4 p.m. December 9, 2025 to:

INCOST
c/o Vicky Warner, RTAP Manager
Indiana Rural Transit Assistance Program
811 Lindsey St.
Columbus, IN 47203

Proposals submitted manually shall be enclosed in a sealed envelope and clearly marked in the lower left corner as follows:

Item: "PROPOSALS FOR MEDICAL QUALIFICATION PROGRAM SERVICES - MQAO"
Proposal Opening Date December 9, 2025.

Proposals submitted electronically must note on the subject line "Proposals for Medical Qualification Program Services

Cost proposals should be sealed in a separate envelope, marked with the same information as above, but also including the name of the Proposer. Sealed cost proposals should then be placed inside the Proposal envelope.

B. Validity of Proposals

Proposers must certify in their response that their proposals remain valid for a period of sixty (60) days after the above cited closing date for submission of proposals and may be extended beyond that time by mutual agreement.

Proposers are hereby notified that after award of a contract, all submittals become part of the procurement record and will be available for public inspection. Proprietary financial information of the company and disclosures of trade secrets contained in the respondent's proposal will be treated as confidential only if such materials are so marked in the original proposal submission and within the limits provided under Indiana State law.

III. REQUIRED PROPOSAL ELEMENTS

Information in the Proposer's submission shall be organized in a single bound volume printed on 8½" x 11" paper. Extraneous information must be kept to a minimum, and general sales materials not specifically related to the proposal as submitted should not be included.

The proposal shall be labeled and arranged in the following format:

A. Statement of Qualifications
B. Scope of Services
C. Signed Cost Proposal Form

A. <u>Statement of Qualifications</u>

Proposers shall present a profile of their firm or entity to include each of the following:

1. A statement indicating that the organization is local, Regional, national, or international. Please include a table of organization.

2. Proposed staff resumes, and a management plan explaining proposed staff roles.

3. The location(s) of the office or facility from which the following services will be administered:
    a. Customer contact;
    b. MQAO's administrative services including billing; and
    c. Scheduling process for conducting evaluations.

4. A minimum of five references, including company, address, telephone number, and contact person(s) for similar (medical qualification and/or fitness for duty assessments) work performed. For each reference, provide a short description of the work performed, indicating the project manager and the duration of the services provided.

5. Minimum MQAO qualifications as a qualified health care provider, including:
    a. Licensed to conduct business in the State of Indiana.
    b. Proper professional licensure of all physicians, medical personnel, and administrative personnel who will be providing direct services to individuals referred by Purchaser(s).
    c. Preferred (3) years' experience performing the types of services specified.
    d. Proof of all examiners' availability on the Federal Motor Carrier Administration's National Registry of Certified Medical Examiners
    e. Demonstrated ability to meet the response times specified.
    f. Demonstrated ability to provide the specified services, reporting, recordkeeping, and confidentiality on an ongoing basis.

6. The executive personnel to be assigned to perform and/or administer these services, including the proposed Project Manager. Also, each Proposer shall name the individual who will be the Chief Executive of this project and who will be responsible for executing an agreement with each transit system for the provision of these Services.

7. How the Proposer's Project Manager and related personnel have been trained on Federal Motor Carrier Safety Administration (FMCSA) Regulations, 49 CFR, Part 391.41, Physical Requirements for Drivers, as amended. Also indicate how they will remain up-to-date on regulatory changes, interpretations, and technologies.

B. Scope of Services

Address each of the items in order as listed on the attached Exhibit A, Scope of Services. Describe each item in sufficient detail to denote how each service or task will be conducted, who is responsible, deliverables, and timelines, as appropriate.

C. Cost Proposal

For each task in Column 1, indicate the individual cost in Column 2, and the total cost in Column 3. Estimated quantities are for evaluation purposes only; actual quantities will be determined by the individual Purchasers.

D. Acceptance of Federal Clauses

The Purchasers are subrecipients of Federal Transit Administration grant funds and will be using these funds to purchase MQ services. Proposers must agree to comply with all applicable federal clauses associated with the services specified in this RFP. Applicable clauses are specified in attachment G. The selected Proposer will be required to certify acceptance of the federal clauses upon issuance of the contract.

IV. SELECTION CRITERIA

A committee comprised of INCOST and INDOT representatives and Purchasers will review the proposals using these criteria with the relative weights as cited below. Interviews with selected Proposers may be scheduled. However, the committee reserves the right to: make its decision on submitted proposals only; request additional information; reject any and all proposals; and waive any irregularities or required formalities. The committee also reserves the right to conduct all investigation and reference checks as necessary to ensure adequate evaluation of the proposals.

Each proposal will be evaluated in the following areas:

A. Background and Experience/Completeness of Proposal – 25%

1. Expertise in medical evaluation services for DOT safety-sensitive personnel.
2. Knowledge of, and specific experience with, the U.S. DOT's "Physical Qualifications for Drivers" 49 CFR Part 391.41, as amended.
3. Familiarity with transit driver responsibilities and work environments.
4. Years of experience of MQAO principals specific to physical evaluations and medical qualification assessments.
5. Required references.
6. Qualifications of all proposed staff to be used in the project.
7. Organization and completeness of the Proposal; the manner in which each area of the proposal was addressed.

B. Quality of Services – 35%

1. Methods used to conduct medical qualification assessments in compliance with 49 CFR

Part 391.41.
2. Demonstrated ability to provide a complete written report and recommendations as to the applicant's or employee's ability to perform the duties of the job and any applicable restrictions.
3. Response time to schedule physical examinations after request is received from the Purchaser(s) and to report results of each examination to the Purchaser(s).
4. How the confidential exchange of information and/or discussions with the treating/prescribing medical practitioners will be addressed in compliance with HIPAA regulations.
5. Comprehensiveness and ease of administrative procedures including billing, processing of evaluation results, recordkeeping, and reporting.
6. Response time to provide medical qualification determinations following notification of intent to use newly prescribed or OTC medications.
7. Demonstrated ability to be accessible and responsive to Purchaser(s)' requests; manner in which Purchaser(s)' concerns will be addressed.

C. <u>Schedule – 15%</u>

1. The Proposer's ability to demonstrate a feasible implementation schedule and ability to work with the Purchasers and implement the Services by the required time frames.
2. The reasonableness of the Proposer's geographic plan to provide services to the Purchasers.

D. <u>Proposed Bid Price – 25%</u>

The total bid price, with breakouts, submitted for each medical evaluation service.

V. OTHER CONDITIONS

A. Financial Assistance

The services described in these specifications shall be purchased with the assistance of funds from INDOT and the USDOT/FTA. The successful Contractor and all subcontractors will be required to comply with all terms and conditions prescribed for third party contracts in a grant contract between the United States of America and the purchasers.

B. Authorization of Proposal

If the proposal is made by an individual doing business under an assumed name, the proposal shall so state. If the proposal is made by a partnership, the full names and addresses of each member and the address of the partnership shall be provided, and the proposal shall be signed by one member thereof. If the proposal is made by a corporation, it shall be signed in the corporate name by an authorized officer, and the corporate seal shall be affixed thereto. If the proposal is made by a joint venture, the full name and address of each member of the joint venture shall be given and the proposal shall be signed by each member.

C. Protest Procedure

Any potential Contractor believing documents or drawings to contain restrictive specifications or any other improprieties regarding the solicitation for proposal may file a protest with INCOST which must be received by the INCOST selection committee no later than twenty (20) working days prior to the RFP opening and shall contain all reasons for the protest. Protests concerning this RFP shall be submitted in writing to INCOST at 811 Lindsey Dr., Columbus, IN47201 and will include the following information:

- The name and address of the protestor;
- The name and telephone number of the protestor contact; and
- A complete statement of the grounds of the protest with full documentation of the protestor's claim(s).

This information must be submitted to the procurement agent identified in the Introduction of this document, who will act as the contact point for all protests. Protests shall be filed within the specified time limits set forth below that are the subject of the procurement and must adhere strictly to any procedures specified therein. INCOST will respond to the protest within five (5) working days of receipt of the protest. The protestor will have five (5) working days to appeal to INCOST after receiving the INCOST's initial response to its protest.

Once an appeal has been received, INCOST will render its final decision in writing, within ten (10) working days. In cases other than those covered in the preceding paragraphs, proposal protests shall be filed with INCOST no later than five (5) working days after notification of the award of the proposal. INCOST shall have fifteen (15) working days from receipt of the formal protest package to evaluate and issue a response to the protest.

Protestors dissatisfied with the INCOST's final decision may follow the appeal procedure set forth in the FTA Circular 4220.1F, Third Party Contracting Requirements. This circular is available upon request from INCOST or available at the FTA's http://www.fta.dot.gov/. The FTA's decision on any appeal will be final.

D. Addendum

Any changes in these instructions, the general conditions or specifications, or other requirements will be accomplished by an addendum in writing, sent to all prospective Proposers. All such addenda shall become a part of the contract. Each prospective Proposer is required to acknowledge receipt of all addenda in writing. Failure to acknowledge receipt of all addenda may cause the proposal to be considered non-responsive, and therefore, rejected.

E. Proposal Withdrawal

Each and every Proposer, by submission of its proposal, specifically waives any right to withdraw it except as hereinafter provided. The Proposer will be given permission to withdraw any proposal after it has been deposited with INCOST, provided the Proposer makes its request by telephone, or in writing, no later than twenty-four (24) hours prior to the time and date specified for submission of the proposal, as stipulated in Section II of this RFP. Requests pertaining to withdrawal by telephone must be confirmed in writing by the Proposer and must reach INCOST no later than one (1) hour prior to the time and date specified in the Submission Instructions of this document.

No Proposer may withdraw its proposal within sixty (60) days after the date fixed for proposal opening.

F. Proposal Rejection

INCOST reserves the right to waive any minor proposal informalities or irregularities received which do not go to the heart of the proposal or prejudice other Proposers, or to reject, for good and compelling reasons, any and all proposals submitted. Conditional proposals or those which take exception to the general conditions, specifications, or to other contract requirements may be rejected. INCOST reserves the right to reject any and all submittals and to re-solicit. INCOST does not guarantee that any contract will be awarded as a result of this RFP.

G. Proposal Evaluation

Each proposal submitted will be evaluated by the criteria set forth in the RFP. The evaluation committee, working independently, will evaluate and rank each proposal submitted. When all proposals have been evaluated and ranked, the highest rated firm will be recommended to the Purchaser for contract execution.

If only one proposal is submitted, it will be treated as a negotiated procurement. INCOST reserves the right to negotiate with the single Proposer to achieve a fair and reasonable price and/or scope of work. If a negotiated price and/or scope of work cannot be agreed upon by both the Proposer and INCOST, INCOST reserves the right to reject the single proposal. Contract change orders or modifications will be subject to price and/or cost and/or scope of work analysis.

H. Termination of Contract

a. Termination for Convenience

Contracts entered into between the selected Proposer and the Purchasers may be terminated by the Purchasers, in whole or in part, at any time by thirty (30) days written notice to the MQAO. The MQAO shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The MQAO shall promptly submit its termination claims to the Purchaser for payment. If the MQAO has any property including active and archived records, test results, data, and/or policy and procedural documentation in its possession belonging to the Purchaser, the MQAO will account for the same, and deliver to Purchaser in the manner the Purchaser directs.

b. Termination for Default

If the MQAO does not deliver services in accordance with the contract delivery schedule, or, if the MQAO fails to perform in the manner called for in the contract, or if the MQAO fails to comply with any other provision of the contract, the Purchaser(s) may terminate this contract for default. Termination shall be effective by serving thirty (30) days written notice of termination on the MQAO setting forth the manner in which the MQAO is in default. The MQAO will only be paid the contract price for service performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the Purchaser(s) that the MQAO had an excusable reason for non-performance, such as strike, fire, or flood, events which are not the fault of, or beyond the control of the MQAO, the Purchaser(s) after setting up a new performance schedule, may allow the MQAO to continue, or treat the termination as a termination for convenience.

If the contract is terminated, the MQAO must submit all property in its possession belonging to the Purchaser to a location designated by the Purchaser. Property includes all records, reports, data, testing results, and program documentation.

I. Remedies/Sanctions for Breach of Contract

Without limiting in any manner other remedies or damages to which the Purchaser(s) may be entitled in law or in equity and/or under this contract in the event of a breach by the MQAO, or a failure by the MQAO to satisfactorily complete its contracts, Purchaser(s) shall be entitled to recover the full amount of its costs which are related in any manner of soliciting new proposals which include all or any portion of the work the MQAO has agreed to perform under this contract. Should the MQAO fail to substantially complete the work covered by this contract within the time specified, and unless such delay is caused by actions entirely beyond the control of the Quality Assurance Provider, the MQAO shall likewise be liable to the Purchaser(s) for all expenses and damages, direct and consequential, resulting from such delays.

J. Proposal Award

INCOST reserves the right to accept any proposal, or to reject any or all proposals, or to recommend the award of the contract to the Purchasers on such basis as INCOST deems to be in its best interest.

K. Contract Subletting

No contract may be assigned, sublet, or transferred without the written consent of the Purchaser(s).

L. Contract Changes/Modifications

The scope of services set forth in this proposal may be reduced, modified, or expanded beyond the limits of the proposal by written contract modifications executed by the Purchaser(s) and the selected Contractor. The number of purchasers to be served will vary depending on the number of transit systems which choose to be included in the Consortium.

In the event that the Purchaser(s) require the Contractor to undertake work not identified in and/or beyond the scope of services, this proposal may be amended in writing to incorporate such services and compensation as are mutually agreed upon.

M. Contract Compliance Statement

The Proposer shall state its compliance with all applicable rules and regulations of Federal, State, and local governing entities. Proposer must state its compliance with terms of this Request for Proposals.

The Proposer must demonstrate that the proposal meets all applicable rules, regulations, zoning, permitting, registration, and licensing requirements, whether local, State, or Federal. It is the responsibility of the potential Proposer to determine the applicability of any rule, regulation, or other requirement.

N. Costs Incurred in Responding

All costs directly or indirectly related to preparation of a response to this RFP or any oral presentation required to supplement and/or clarify the submittal which may be required by INCOST shall be the sole responsibility of, and shall be borne by, the Proposer(s).

Each Proposer, by submitting its proposal, waives any claim for liability against INCOST or the Purchaser(s) as to loss, injury, and costs or expenses which may be incurred as a consequence of its response to this document.

VI Contract Requirements

Procurement requirements for public transit providers come with certification requirements that must be met by the transit system and qualifying proposers during bid and proposal processes. INCOST, as the host for this RFP, requires each proposer to address the following contract requirements.

O. <u>Insurance</u>

A. Insurance

Without limiting its liability hereunder, the selected Contractor shall maintain, during the life of this Agreement, the following insurance and furnish INCOST Certificates of Insurance as evidence thereof:

- <u>Worker's Compensation Insurance.</u> Providing coverage in compliance with the laws of the State in which any part of the work is to be performed, and Employer's Liability Coverage in the minimum amount of $100,000 for each occurrence.
- <u>Contractor's Professional Liability.</u> Bodily injury and property damage combined single limit in the minimum amount of $250,000 each occurrence, $250,000 aggregate. The Comprehensive General Liability Insurance referred to in this section, paragraphs (B) and (D), shall include broad form Contractual Liability Coverage for the liability assumed by the Contractor in Section 23.
- The Contractor's Certificate shall include:
    - The Contractual Insurance coverage is on a Blanket Broad Form basis unless specifically indicated.
    - The company or companies, upon request, agree to deliver within fifteen (15) days a certified copy of any and/or all of the policies of insurance to INCOST or the Purchaser.
    - If one (1) or more Umbrella Excess policies are used, there is no gap between the limits of the primary policies and the deductible features of the Umbrella Excess policies.
    - Coverage under the primary policies has no deductible features unless an explanation is included in the proposal. If there are deductible features or the insured has adopted a funded self-insurance program, they are to be fully explained on an attached sheet which becomes a part of the Certificate.
    - The coverage provided shall not be cancelled, reduced in coverage, or allowed to lapse unless and until INCOST and the Purchasers receive at least thirty (30) days advance written notice of same. Said written notice must be delivered to INCOST at the address provided in Section II of this RFP and all appropriate Purchasers.
- The Contractor shall provide evidence of the MRO's malpractice insurance, as applicable.

P. <u>Debarment</u>

Each Proposer will be required to certify by signing the proposal that the Proposer is not included on the U.S. Comptroller General's Consolidated List of Persons or Firms Currently Debarred for Violations of Various Contracts Incorporating Labor Standards Provisions.

Q. <u>Non-Collusion</u>

The Proposer guarantees that the proposal submitted is not a product of collusion with any other

Proposer. An affidavit of non-collusion form is included and must be signed and submitted with the proposal.

R. Interest of Members of, or Delegates to, Congress

In accordance with 18 U. S. C. 431, no member of, or delegates to, the Congress of the United States shall be admitted to a share of part of this contract or to any benefit arising there from.

S. Conflict of Interest

No employee, officer, or agent of the contractor shall participate in the selection or in the award of administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

The employee, officer or agent, any member of his immediate family, his or her partner, or any organization which employs, or is about to employ, has a financial or other interest in the firm selected for award.

The Contractors officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties of sub-agreement.

T. No Contingency Fees

The contractor shall warrant that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained be the Contractor for the purpose of securing business, for the breach or violation of which warranty the Purchaser(s) shall have the right to annul said contract without liability or, in its discretion, to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

U. Indemnification

The Contractor shall indemnify, save, defend, and hold FTA, INCOST, INDOT, RTAP, the Purchaser(s), their officers, agents and employees free of all losses, damages, claims, and expense in any way arising or resulting from the actions and omissions of the Contractor, its employees, agents, or sub-contractors in the performance of the services hereunder.

V. Independent Contractor

The MQAO is at all times an independent contractor and in no way shall be deemed to be in joint venture, partnership, or other relationship with INCOST or the Purchasers.

W. False or Fraudulent Statements or Claims

The Proposer acknowledges that should it make a false, fictitious or fraudulent claim, statement, submission, or certification to INCOST or the Purchaser(s) in connection with this project, INCOST or the Purchaser(s) reserve the right to pursue the procedures and impose on the Contractor the penalties of 18 U. S. C. 1001, 31 U. S. C. 231, and 3801 et. Seq., and/or 49 U. S. C. 1607(h), as may be deemed by INCOST, or the Purchasers, to be appropriate.

X. Equal Employment Opportunity

In connection with carrying out the required scope of work, the Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, sexual orientation, gender identity, handicap, and national origin. The Contractor will take affirmative action to ensure that applicants are employed, and the employees are treated during employment, without regard to race, religion, color, sex, age, handicap, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other compensation, and selection for training, including apprenticeship.

Y. Disadvantaged Business Enterprise

It is the policy of the Department of Transportation that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under the Agreement. Accordingly, the DBE requirements of 49 CFR Part 23 applies to this Agreement. In connection with the performance of this scope of work, the Contractor will cooperate with INCOST or the Purchaser(s) in meeting its commitments and goals with regard to maximum utilization of DBEs and will use its best effort to ensure that disadvantaged business will be utilized when possible by steps in accordance with FTA Circular 4716.1 and DOT regulation 49 CFR Part 23.

Z. Title VI Civil Rights Act of 1964

During the performance of this contract, the Contractor, for itself, its assignees and successors in interest agrees to the following:

Compliance with Regulations: The Contractor shall comply with the regulations relative to nondiscrimination in Federally–assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

Nondiscrimination: The Contractor, with regard to the required scope of work, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including the procurements of materials or leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

Solicitation for Subcontractors Including Procurement of Materials and Equipment: In all solicitations whether 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 shall be notified by the contractor of the contractor's obligations under the required scope of work and the Regulations relative to nondiscrimination on the grounds of race, color, religion, sex, or national origin.

Information and Reports: The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Purchaser(s), INDOT, RTAP, or FTA to be pertinent to ascertain compliance with such regulations, orders, and instruction. Where any information required of a subcontractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Purchaser(s), INDOT, RTAP, or the USDOT/FTA, as appropriate, and shall set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of the Contractor's non-compliance with the nondiscrimination provisions of this contract, the Purchaser(s) shall impose such contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to:

Withholding of payments to the Contractor under the contract until Contractor complies, and/or

Cancellation, termination, or suspension of the contract, in whole or in part.

Incorporation of Provisions: The Contractor shall include the provisions of the paragraphs A through F as outlined in Section II in every sub-contract, including procurements of materials and lease of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the Purchaser(s), INCOST, INDOT, RTAP, or the FTA may direct as a means of enforcing such provision including sanctions for noncompliance: Provided, however, that, in the event a contractor, subcontractor or supplier as a result of such direction, the Contractor may request the Purchaser(s), INCOST,INDOT, and RTAP to enter into such litigation to protect the interests of the Purchaser(s), INCOST, INDOT, and RTAP, and in addition, the Contractor may request the services of the Attorney General in such litigation to protect the interests of the United States.

AA. Audit and Inspection

The Contractor shall permit the Purchaser(s), INCOST, INDOT, RTAP, and the USDOT/FTA, the Secretary and Comptroller General of the United States, or any of their duly authorized representatives to inspect all work materials, payrolls, other data and records with regard to the required scope of work, and to audit the books, records, and accounts pertaining to such contracts with regard to the Project.

The Contractor shall maintain documentation for all charges against the Purchaser(s) under this scope of work. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under the Contract, shall be maintained in conformity with generally-accepted accounting principles for a period of three (3) full years from the date of final payment, and shall be subject to audit, at any reasonable time upon reasonable notice, by the Purchaser(s), the State of Indiana, or the Comptroller of the Treasury, or their duly appointed representatives, or a licensed independent public accountant. Further, the records shall be maintained for a period of not less than three (3) years from the date of final payment.

In the event the Purchaser(s) is audited by a Federal or state governmental agency, the Contractor shall provide whatever records, information, and assistance as the Purchaser(s) may reasonably require. The Contractor shall provide information and assistance requested by the Purchaser(s) for progress reports required of the Purchaser(s) by Federal or state government agencies.

BB. Applicable Law

The required scope of work shall be construed, carried out, and governed in accordance with the law of the State of Indiana.

CC. Use of INCOST's Name in Advertising, Public Relations, and News Releases

INCOST reserves the right to review and approve the INCOST-related copy prior to publication. The Contractor shall not allow the INCOST-related copy to be published in the Contractor's advertisement or public relations program until submitting it to, and receiving prior written approval from, INCOST. News releases pertaining to the contents of the RFP or any negotiations must not be made without the prior approval of INCOST.

DD. Required Federal Clauses

The Contractor must comply with all required Federal clauses as outlined in the FTA Master Agreement. Please refer to Exhibit F, which contains the applicable Federally-required contract clauses.

EE. Correspondence

In cases where communication is required between the Contractor and INCOST, such communication should be directed to Indiana RTAP, Attention: RTAP Manager, 811 Lindsey St., Columbus, IN 47201, vwarner@rlsandassoc.com.

FF. Miscellaneous Provisions

The Contractor, the Purchaser(s), and INCOST mutually agree as follows:

Personnel. The Contractor represents that it has or will secure at its own expense, all personnel required in performing the services under the required scope of work. Such personnel shall not be employees of, or have any contractual relationship with, the Purchaser(s), INCOST, INDOT, or RTAP.

All services required hereunder will be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such service.

Interest of Other Local Public Officials. No members of the governing body of the locality in which the area where the scope of work to be carried out is situated and no other public official of such locality who exercises any functions or responsibilities in the review or approval of the carrying out of the scope of work has interest, direct or indirect, in this Agreement.

Contractor's Endorsement. The Contractor's endorsement shall be placed on the final report, cost estimates; also, other data and documents furnished by the Contractor to the Purchaser(s) or INCOST.

Control. All work by the Contractor is to be performed in a manner satisfactory to RTAP and the Purchasers and in accordance with the established customs, practices, and procedures. The decision of RTAP is to control all questions regarding the work covered hereunder. In an effort to ensure program compliance with services provided as outlined in the Scope of Work periodic meetings may be schedule to review services, service locations, and administrative requirements.

Access to Records. The Contractor shall maintain books, records, documents, and other evidence directly pertinent to performance of work under this Agreement in accordance with accepted professional practice and appropriate accounting procedures and practices. Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards and formally established audit regulations, procedures, and guidelines of the reviewing or audit agency.

GLOSSARY OF TERMS

CDL: Commercial Driver's License.

CMV: Commercial Motor Vehicle.

Consortium: For purposes of this solicitation, the group of Purchasers on whose behalf this procurement of services is being conducted.

FMCSA: The Federal Motor Carrier Safety Administration.

FTA: The Federal Transit Administration.

For Hire Endorsement: A for-hire endorsement provides the license holder privileges to operate a motor vehicle that:

- Has a gross vehicle weight rating of at least 16,000 pounds, but not more than 26,000 pounds, and used to transport property; or
- Is designed to transport less than 16 passengers, including the driver, and used to transport passengers for-hire.

INCOST: The Indiana Council on Specialized Transportation (INCOST), the organization that is conducting this procurement on behalf of Indiana's rural transit systems.

INDOT: The Indiana Department of Transportation.

Medical Determination Officer (MDO): A medical professional that performs a variety of medical services including, but not limited to, physical examination services/medical qualification assessments for all safety-sensitive transit positions in accordance with Indiana Code 20-9.1-3-1 and applicable transit system policies including Medical Qualification, RX/OTC and Substance Abuse Policies. As such, the MDO provides a written recommendation for an applicant's ability to perform the essential duties of a safety-sensitive job.

Medical Qualification (MQ): The physical and cognitive health status that facilitates the performance of essential job functions in a safe and effective manner, protecting the health and safety of oneself, others, and property.

Medical Qualification Determination: A determination made by the MDO attesting to an employee's medical qualification in any of the situations described following an extended medical absence or management-required medical qualification assessment. Allowable costs to obtain the certification may be paid by Workers' Compensation for work-related injuries by the employee's health insurance, the employee, or the employer depending on the circumstances that led up to the medical qualification assessment and the outcome of the assessment.

Medical Quality Assurance Officer (MQAO): A position to be filled by a properly licensed physician whose responsibilities are to ensure consistency and provide technical assistance and guidance to MDOs, and whose services are sought through this RFP.

MQ Program: The Medical Qualification Program, a mandatory program of INDOT that works to ensure the safety of both those individuals providing public transit services and the traveling public by establishing consistent medical standards for evaluating safety-sensitive employees required to hold a CDL or Fore Hire Endorsement, and who also operate rural public transportation vehicles.

Proposer: an entity submitting a proposal in response to this solicitation.

Purchaser(s): Indiana's transit systems which are covered by the Indiana Medical Qualification Program and which will be purchasing services under the contract established as a result of this solicitation.

RTAP: The Rural Transit Assistance Program, a National program with a state program component that provides technical assistance and training as well as other services. For purposes of this solicitation, the state counterpart to National RTAP, the Indiana RTAP Program, administers the MQ Program and will be providing administrative oversight to any resulting contract(s).

Rx/OTC Medication: Prescription/Over-the-Counter medication.

Safety-Sensitive Employee: An employee whose job duties include responsibility for the employee's own or other people's safety.

U.S. DOT: The United States Department of Transportation.

INDIANA MEDICAL QUALIFICATION PROPOSAL
REQUEST FOR PROPOSALS

EXHIBIT A. SCOPE OF SERVICES

INTRODUCTION

The selected contractor for this RFP will serve as Indiana's Medical Quality Assurance Officer (MQAO). Please note that a properly licensed physician is required to act as the MQAO.

In 2011, the Indiana Department of Transportation (INDOT) required that all rural subrecipients adopt a prescription (Rx) and over-the-counter (OTC) medication policy after the National Transportation Safety Board and the FTA expressed concerns over the potential risks of Rx and OTC medication use by transit operators. Recognizing that Rx/OTC use is only a small part of the medical issues of concern, the program was expanded into a comprehensive medical qualification program. INDOT implemented this program for all Section 5311 recipients. The program established standards for consistency regarding the medical standards utilized for evaluating safety-sensitive employees required to hold a CDL or "For Hire Endorsement," and who operate rural public transportation vehicles. The Medical Qualification Program follows the standards set forth in the Federal Motor Carrier Safety Administrations (FMCSA) regulations 49 CFR Part 391.41, as amended, for all public transportation operators regardless of license type.

At its inception, the program was administered by one provider who handled all exams, determinations, and appeals for the entire state of Indiana. An MQAO provided oversight of the entire program, administered guidance, and was the final word on fitness-for-duty determinations. As this model created administrative and travel burdens for both the provider and the transit system, the program was redeveloped and has been provided on a Regional basis with service providers located in each Region. Each of the Regions will have a Medical Determination Officer (MDO) to oversee assessments performed within the Region. These will be separate from the MQAO, which will continue to provide quality assurance and administrative guidance for the program.

The MQAO will be responsible for determining all appeals, providing expert testimony in potential legal situations, providing technical assistance when needed, has authority to discontinue or add vendor services with INDOT approval. and providing training and education for the Regional providers. Each Regional provider must have a Medical Determination Officer (MDO) on staff, who is responsible for all medical determinations, administrative requirements, and general oversight of the program under their service. The MQAO will assist the MDO when second opinions are needed, and will give the program a level of uniformity because they oversee all Regions in Indiana.

The scope of services for the provision of the Indiana Medical Qualification Program is separated into Regions in order to ease the travel burden of the current public transit systems, as shown in Exhibit D. These Regions include the following: the Northeast Region, the Northwest Region, the East Region, the Southwest Region, the Southeast Region, and the Central Region. Regional providers may perform fitness-for-duty assessments from one or more established medical facilities in the Region or through on-site assessments at transit facilities. Qualified Proposers may **ONLY** submit a proposal for the MQAO position in response to this RFP. **Proposers wishing to propose on the provision of Regional services must respond to a separate RFP. Contact the Indiana RTAP program at (812) 799-3360 or visit the RTAP website at indianartap.com for more information.**

This scope of services details the required services to be provided by Proposers. Proposers must clearly address each section and requirement, following the format presented. Any exceptions or additional services must be clearly noted.

The specific services required are detailed below.

REQUIRED SERVICES FOR THE MEDICAL QUALITY ASSURANCE OFFICER (MQAO)

As previously stated, the Medical Qualification Program mimics the **standards** established by the FMCSA. The MQAO must have sufficient knowledge of the medical qualification standards and have completed the requirements of, and be listed on, the National Registry of Certified Medical Examiners (National Registry) to act as the MQAO for the Medical Qualification Program. Proposers must include verification of this certification in their proposals.

The MQAO must also perform the following tasks:

<u>Task 1. Implement Appeals Process</u>

An appeals process is necessary to ensure due process to individuals who have been disqualified to allow their appeal of determination and the opportunity to request an objective review of their medical information.

1. Once an employee has been notified of his or her medical disqualification, the transit system will remove the employee from safety-sensitive duty and will inform the employee of his or her options in accordance with the system's medical leave policy, availability of an alternative non-safety-sensitive work assignment, and the appeal process.

2. Employees have the right to appeal the medical determination and must submit a written notice of appeal and request for review of the medical determination <u>within 30 days</u> after the medical determination is rendered. Employees must also submit documentation to support the request for appeal with the written notice of appeal. The transit system is required to acknowledge the appeal request in writing to the employee within <u>five days</u> from receipt of the request and then forward the request to the MQAO for review and determination.

3. The MQAO will review the appeal request and any supporting documentation and may request additional medical testing and/or clarification or further explanation of supporting documentation as a part of this process. The MQAO will render a written decision within 30 days of receipt of the review request or in cases where additional testing or information is requested, 30 days from the receipt of requested information, to the transit system. The transit system will then be required to notify the employee of the MQAO's appeal decision in writing within 5 days of receipt of the information from the MQAO.

The appeals process must be implemented consistently for all transit operators to ensure an equivalent review of an individual's ability to perform assigned safety-sensitive duties. The MQAO must have a complete understanding of the physical requirements of each position within the transportation system and be able to implement the appeals process in an equivalent manner to ensure consistency with the evaluations operators are receiving during this process.

Task 3: Assist in Waiver Determinations

In cases where an employee has been determined to be unfit to perform essential job functions, that employee has the right to request a waiver. If the employee is a CDL holder, the employee can apply for a waiver from the Indiana BMV for in state CDL's or FMCSA for intra state CDL's. If the employee is a "For Hire Endorsement" license holder, the appeal is under the jurisdiction of the MQAO. The MQAO should establish the same criteria utilized by the State BMV and FMCSA in determining waiver applicability. The MQAO will be notified of an employee's wish to file for a waiver request and will provide guidance to the MDO and transit systems, as appropriate. Provide the proposed criteria for meeting this requirement.

Task 4. Provide Miscellaneous Services

Proposers will be expected to also provide a variety of miscellaneous services as outlined below.

Task 4.1. Provide Expert Testimony

Provide expert testimony, including explanation of tests and examination results, as needed on behalf of INDOT or transit systems for any legal or Equal Employment Opportunity proceedings associated with the implementation of the Medical Qualification Program, including the appeal process and interaction with Regional MDOs. This testimony could be administered remotely in many situations.

Task 4.2. Provide Quality Assurance and Technical Assistance

1. Develop/Review standard operating procedures and forms for physical examinations, reporting, waiver requests, appeals, etc. for all Regional sites to use in order to obtain consistency throughout the program.
2. Establish and describe reporting procedures for Regional MDOs to report evaluations performed and provide periodic reviews of evaluations conducted by the Regional sites as a means of oversight to ensure consistency.
3. Provide quarterly quality assurance measures and technical expertise to Regional MDOs to verify quality of evaluations, completion of proper program forms and ensure the timeliness of reports being provided to systems.
4. Investigate new medical protocols/guidance or recurring medical issues when they arise and issue guidance to MDOs.
5. Investigate inconsistencies among the Regions, if brought to light, and issue guidance in

order to correct the inconsistency. Notify INDOT staff of corrective actions taken to eliminate repeat errors.

6. Provide technical assistance and guidance to INDOT staff for policies, procedures, and other program issues that arise. INDOT will receive an annual report on the status of the program. This assistance can be administered remotely in many situations.
7. Review documents and determination results, upon request, to ensure consistency among the Regional sites.
8. In the event a significant safety risk has been identified by the Medical Review Officer (MRO) for the FTA-mandated drug and alcohol testing program, the MQAO may be contacted to mitigate options available to the employee by the transit system.
9. Assist with or aid in the development of a scheduling portal or a clearly developed scheduling protocol to ensure transit providers can have their drivers seen by a qualified Medical Determination Officer in a timely manner.

Task 4.3. Provide Training and Education

1. Provide an orientation, which can be presented in person or via webinar, to educate all Indiana Medical Qualification Program MDOs on the provision and requirements of the program, including:

    - Procedures
    - Forms
    - Recordkeeping
    - Reporting
    - Appeals
    - BMV Appeals
    - Waiver Process
    - Limited Medical Clearances (one year, six-month, and three-month)
    - Significant safety-risks
    - Insufficient volume DOT assessment
    - Prescription and Over-the-Counter Medication Reviews

2. Provide guidance and consistency measures to MDOs for common and recurring medical questions and the implementation of Medical Qualification Program procedures.
3. Develop or aid in the development of a training video or virtual training program that educates drivers on the program requirements, what to expect during the examination, and what may trigger additional testing or evaluation.

Proposers must implement and maintain all necessary records of services provided and appropriate procedures to assure confidentiality of all records and reporting.

INDIANA MEDICAL QUALIFICATION PROPOSAL REQUEST FOR PROPOSALS FOR MEDICAL QUALIFICATION ASSURANCE OFFICER SERVICES

EXHIBIT B. COST SHEET

As the MQAO will perform many services on an as needed basis, an hourly rate is required for a portion of tasks outlined in Exhibit A, Scope of Services. For quantifiable services, a rate per test or training session is required. The quantities given are estimated and provided for comparison purposes. If the MQAO will delegate some tasks to other staff, please include rates for these staff members as well.

Tasks to be Charged as an Hourly Rate	
Guidance on Waiver Requests	$________per hour
Development and Review of Standard Operating Procedures and forms for all aspects of the Medical Qualification Program	$________per hour
Investigations of new medical protocols/guidance relevant to the program	$________per hour
Investigations of consistency issues within the program	$________per hour
Technical Assistance and Guidance to INDOT	$________per hour
Technical Assistance and Guidance to Medical Determination Officers	$________per hour
Provision of Expert Testimony	$________per hour
Other Necessary Quality Assurance and Consistency Measures	$________per hour

Other Tasks As Required		
Task	**Estimated Quantities**	**Total**
Appeal Review	Cost of one (1) review: $______times 20	$
Training and Education Sessions	Cost of one (1) session: $______times 2	$
Subtotal for Other Tasks		$

INDIANA MEDICAL QUALIFICATION PROPOSAL
REQUEST FOR PROPOSALS FOR MEDICAL QUALIFICATION ASSURANCE OFFICER SERVICES

EXHIBIT C. TRANSIT SYSTEM INFORMATION

Grantee	System	Address	City/State	Zip	Drivers
Adams County	Adams County Transit	1109 Dayton Street	Decatur, IN	46733	8
Bedford	Transit Authority of Stone City	1620 L. Street	Bedford, IN	47421	25
Boone County	Boone Area Transit System	515 Crown Point Drive	Lebanon, IN	46052	19
Brown County	ACCESS Brown County Transit	105 Willow Street	Nashville, IN	47448	8
Cass County	Cass Area Transit	115 S. Sixth Street	Logansport, IN	46947	22
Clinton County	Clinton County Transit	401 W. Walnut	Frankfort, IN	46041	11
Clinton County	Tipton County Transit	900 E Jefferson St.	Tipton, IN	46072	5
Clinton County	Crawfordsville Area Transit	922 East South Blvd.	Crawfordsville,	47933	13
DeKalb County	DeKalb Area Rural Transit	1800 East 7th Street	Auburn, IN	46706	21
Franklin County	Franklin County Public Transportation	11146 County Park Road	Brookville, IN	47012	12
Fulton County	Fulton County TRANSPO	625 Pontiac Street	Rochester, IN	46975	18
Hendricks Co.	Hendricks County LINK; Morgan County CONNECT	1001 Sycamore Lane	Danville, IN	46122	60 (Morgan)
Blue River	Southern Indiana Transit System	P.O. Box 547	Corydon, IN	47112	18
Huntingburg	Huntingburg Transit System	508 East Fourth Street	Huntingburg, IN	47542	3
Huntington County	Huntington Area Transportation	354 N. Jefferson Street	Huntington, IN	46750	16
Jay County	The New InterUrban	1701 Pilgrim Blvd. P.O. Box 308	Yorktown, IN	47396	12
KIRPC	Arrowhead County Public Transportation	115 E. 4th St., P.O. Box 127	Monon, IN	47959	27

Knox County YMCA	Vincennes Van Go	2009 Prospect Ave.	Vincennes, IN	47591	21
Kosciusko County	Kosciusko Area Bus Service	1804 East Winona Avenue	Warsaw, IN	46580	7
LaGrange County	LaGrange County Council on Aging	P.O. Box 107	LaGrange, IN	46761	21
Madison County	Transp. for Rural Areas of Madison Co.	16 East Ninth Street	Anderson, IN	46016	8
Marion	Marion Transportation System	520 E. 6th Street	Marion, IN	46952	12
Marshall County	Marshall County Transit	1305 W. Harrison	Plymouth, IN	46563	15
Miami County	Miami Co. YMCA Public Transit	Sixth & Wabash Street	Peru, IN	46970	12
Monroe County	Rural Transit	630 W. Edgewood Drive	Ellettsville, IN	47429	34
New Castle	New Castle Community Transit System	201 South 25th Street	New Castle, IN	47362	5
Noble County	Noble Transit System	111 Cedar Street	Kendallville, IN	46755	20
Orange County	Orange County Transit	P.O. Box 267	Paoli, IN	47454	15
Richmond	Rose View Transit	401 South "Q" Street	Richmond, IN	47374	17
Rush County	Ride Rush Public Transit	504 W. 3rd Street	Rushville, IN	46173	10
Seymour	Seymour Transit	301-309 North Chestnut Street	Seymour, IN	47274	12
SIDC	Ride Solution	P.O. Box 367	Washington, IN	47501	173
Lifetime Resources, Inc.	Catch-A-Ride	13091 Benedict Drive	Dillsboro, IN	47018	43
Steuben County	STAR Transportation	317 W. Wayne St., Suite 1B	Angola, IN	46703	16
Tippecanoe	Tippecanoe County Transit	660 N. 36th St., P.O. Box 4727	Lafayette, IN	47903	6
Union County	Whitewater Valley Regional Transit	P.O. Box 333	Liberty, IN	47353	11
Wabash County	Wabash County Transit	P.O. Box 447	Wabash, IN	46992	19
WCIEDD - Vigo	Thrive Public Transit	1718 Wabash Ave.	Terre Haute, IN	47808	8

Wells County	Wells on Wheels Public Transit	255 W. Water Street	Bluffton, IN	46714	12
White County	White County Transit	P.O. Box 421	Monticello, IN	47960	10
Whitley County	Whitley County Transit	603 W. Van Buren	Columbia City, IN	46725	12

EXHIBIT D. REGIONAL MAP

Exhibit E

FEDERAL CLAUSES

ACCESS TO RECORDS AND REPORTS

a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third-party Contracts of any type, and supporting materials related to those records.

b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information, including such records and information the contractor or its subcontractors may regard as confidential or proprietary, related to performance of this contract in accordance with 2 CFR § 200.337.

d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractor's access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

AMERICANS WITH DISABILITIES ACT (ADA)

The contractor agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

BOND REQUIREMENTS

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

It is also understood and agreed that if the bidder should withdraw any part or all of their bid within [90] days after the bid opening without the written consent of the Agency, or refuse or be unable to enter into this Contract as provided above, or refuse or be unable to furnish adequate and acceptable Performance and Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, it shall forfeit its bid guaranty to the extent Agency’s damages occasioned by such withdrawal, or refusal, or inability to enter into a Contract, or provide adequate security thereof.

It is further understood and agreed that to the extent the defaulting bidder's bid guaranty shall prove inadequate to fully recompense Agency for the damages occasioned by default, then the bidder agrees to indemnify Agency and pay over to Agency the difference between the bid guarantee and Agency’s total damages so as to make Agency whole.

The bidder understands that any material alteration of any of the above or any of the material contained herein, other than that requested will render the bid unresponsive.

(10) Performance Guarantee. A Performance Guarantee in the amount of 100% of the Contract value is required by the Agency to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by the Contractor and shall remain in full force for the term of the Contract. The successful Bidder shall certify that it will provide the requisite Performance Guarantee to the Agency within ten business days from Contract execution. The Agency requires all Performance Bonds to be provided by a fully qualified surety company acceptable to the Agency and listed as a company currently authorized under 31 C.F.R. part 22 as possessing a Certificate of Authority as described hereunder. Agency may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The Agency may secure additional protection by directing the Contractor to increase the amount of the existing bond or to obtain an additional bond.
If the Bidder chooses to provide a Letter of Credit as its Performance Guarantee, the Bidder shall furnish with its bid, certification that an Irrevocable Stand-By Letter of Credit will be furnished should

the Bidder become the successful Contractor. The Bidder shall also provide a statement from the banking institution certifying that an Irrevocable Stand-By Letter of Credit for the action will be provided if the Contract is awarded to the Bidder. The Irrevocable Stand- By Letter of Credit will only be accepted by the Agency if:

1. A bank in good standing issues it. The Agency will not accept a Letter of Credit from an entity other than a bank.
2. It is in writing and signed by the issuing bank.
3. It conspicuously states that it is an irrevocable, non-transferable, "standby" Letter of Credit.
4. The Agency is identified as the Beneficiary.
5. It is in an amount equal to 100% of the Contract value. This amount must be in U.S. dollars.
6. The effective date of the Letter of Credit is the same as the effective date of the Contract
7. The expiration date of the Letter of Credit coincides with the term of the contract.
8. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the Contract. It must specifically reference the Contract between the Agency and the Contractor the work stipulated herein.

The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft to the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that the Contractor is in default under the Contract.

Payment Bonds. A Labor and Materials Payment Bond equal to the full value of the contract must be furnished by the contractor to Agency as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to (Agency) and listed as a company currently authorized under 31 C.F.R. part 223 as possessing a Certificate of Authority as described thereunder.

BUS TESTING

The Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 C.F.R. part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, the contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the recipient.

BUY AMERICA REQUIREMENTS

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7.

Build America, Buy America Act. Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b). In accordance with 2 CFR § 184.2(a), the Recipient shall apply the standards of 49 CFR Part 661 to iron, steel, and manufactured products.

Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements

The bidder or offeror must submit to the Agency the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive. For more information, please see the FTA's Buy America webpage at: https://www.transit.dot.gov/buyamerica

CARGO PREFERENCE REQUIREMENTS

The contractor agrees:

a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this agreement, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available. 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 CFR Part 381.

b. to furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in 46 CFR § 381.7(a)(1) shall be furnished to both the recipient (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and

c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

CHANGES TO FEDERAL REQUIREMENTS

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and

Applicable changes to those federal requirements will apply to each Third-Party Agreement and parties thereto at any tier.

CHARTER SERVICE

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that Recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(d);
2. FTA regulations, "Charter Service," 49 C.F.R. part 604;
3. Any other federal Charter Service regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include:

1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA;
2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or
3. Any other appropriate remedy that may apply.

The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts.

The Contractor and any subcontractor agree to comply with all the requirements prohibiting discrimination on the basis of race, color, or national origin of the Title VI of the Civil Rights Action of 1964, as amended 52 U.S.C 2000d, and U.S. DOT regulation "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of the Title VI of the Civil rights Act, "49 C.F. R. Part 21 and any implementing requirement FTA may issue.

1 **Federal Equal Employment Opportunity (EEO) Requirements**. These include, but are not limited to:

a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation), disability, or age, and prohibits discrimination in employment or business opportunity.

b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, Title VI of the Civil Rights Act of 1964," 49 CFR Part 21, and 49 U.S.C. § 5332, prohibits discrimination in employment on the basis of race, color, religion, sex, or national origin.

2 **Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

3 **Nondiscrimination on the Basis of Age**. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

4 **Federal Protections for Individuals with Disabilities**. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination**. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. **Equal Employment Opportunity**. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.; and Federal transit laws at 49 U.S.C. § 5332, the

Contractor agrees to comply with all applicable equal employment opportunity requirements, without regard to their race, color, religion, national origin, or sex (including sexual orientation). In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. **Age**. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621- 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any Implementing requirements FTA may issue.

4. **Disabilities**. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

5. **Federal Law and Public Policy Requirements**. The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; and the Recipient will cooperate with Federal officials in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in the enforcement of Federal immigration law.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor agrees 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 FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of $150,000:

<u>Clean Air Act</u>

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure

notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FTA."

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
b. Where applicable (see 40 U.S.C. § 3701), 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 at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
c. Under 40 U.S.C. § 3702, 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.
d. 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.
e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

Compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract

work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one- half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

DAVIS BACON ACT AND COPELAND ANTI-KICKBACK ACT

For all prime construction, alteration, or repair contracts in excess of $2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

DEBARMENT AND SUSPENSION

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of $25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

a) Debarred from participation in any federally assisted Award;
b) Suspended from participation in any federally assisted Award;
c) Proposed for debarment from participation in any federally assisted Award;
d) Declared ineligible to participate in any federally assisted Award;
e) Voluntarily excluded from participation in any federally assisted Award; or
f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)
(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

It is the policy of the Agency and the United States Department of Transportation ("DOT") that

Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Agency deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

ENERGY CONSERVATION

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C.§ 6201).

FLY AMERICA

a) Definitions. As used in this clause—
   1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.
   2) "United States" means the 50 States, the District of Columbia, and outlying areas.
   3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agency's, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

   Statement of Unavailability of U.S.-Flag Air Carriers
   International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions within include, in part, certain Standard Terms and Conditions required under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, detailed in 2 CFR § 200 or as amended by 2 CFR § 1201, or the most recent version of FTA Circular 4220.1 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Recipient and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Recipient, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF INFORMATION RELATED TO FRAUD, WASTE, ABUSE, OR OTHER LEGAL MATTERS.

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third-Party Agreements and must require each Third-Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

(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.

(2) 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.

(3) The Recipient 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 Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

PATENT RIGHTS AND RIGHTS IN DATA

<u>Intellectual Property Rights</u>
This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant the Agency intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any Implementing regulations issued by FTA or U.S. DOT.

The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions:

Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution.

For purposes of this Contract, the term “subject data” means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of “subject data” include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. The Federal Government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for “Federal Government Purposes,” any subject data or copyright described below. For “Federal Government Purposes,” means use only for the direct purposes of the Federal Government. Without the copyright owner’s consent, the Federal Government may not extend its Federal license to any other party.

a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and
b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.

2. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA’s license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall not be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other

right otherwise granted to the Federal Government under any patent.

5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.

6. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre- award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The Contractor acknowledges that the provisions of 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, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

   1) Procure or obtain;
   2) Extend or renew a contract to procure or obtain; or
   3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(i) Telecommunications or video surveillance services provided by such entities or using such equipment.

(ii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

c) See Public Law 115-232, section 889 for additional information.

d) See also § 200.471.

PROMPT PAYMENT

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. U.S. DOL Certification. Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.

2. Special Warranty. When the Contract 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 U.S. DOL Special Warranty is a condition of the Contract.

3. Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. 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, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

RESTRICTIONS ON LOBBYING

<u>Conditions on use of funds.</u>

(a) No appropriated funds may be expended by the recipient a Federal contract grant, loan, or cooperative agreement to pay any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

(d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

(e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

Certification and disclosure.

(a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:
  (1) Award of a Federal contract, grant, or cooperative agreement exceeding $100,000; or
  (2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000.

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:
  (1) A Federal contract, grant, or cooperative agreement exceeding $100,000; or
  (2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000, Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:
  (1) A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
  (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
  (3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:
  (1) A subcontract exceeding $100,000 at any tier under a Federal contract;
  (2) A subgrant, contract, or subcontract exceeding $100,000 at any tier under a Federal grant;
  (3) A contract or subcontract exceeding $100,000 at any tier under a Federal loan exceeding $150,000; or,
  (4) A contract or subcontract exceeding $100,000 at any tier under a Federal cooperative agreement, Shall file a certification, and a disclosure form, if required, to the next tier above.

(e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.

(f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.

(g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989 effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.

(h) No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart B or C.

SAFE OPERATION OF MOTOR VEHICLES

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or Agency.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

SCHOOL BUS OPERATIONS

The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, “School Bus Operations,” 49 C.F.R. part 605;
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or

2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

SEISMIC SAFETY

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

SIMPLIFIED ACQUISITION THRESHOLD

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America's eligibility and process requirements apply to any procurement in excess of $150,000. 49 U.S.C. § 5323(j)(13).

SOLID WASTES (RECOVERED MATERIALS)

A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Applies to States –

a. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:

   (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
   (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
   (3) The amount of federal assistance FTA has provided for a State Program or Project.

b. Documents - The State agrees to provide the information required under this provision in the following documents:

   (1) applications for federal assistance,
   (2) requests for proposals or solicitations,
   (3) forms,
   (4) notifications,
   (5) press releases, and
   (6) other publications.

SUBSTANCE ABUSE REQUIREMENTS

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or Agency, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to the Agency.

TERMINATION

<u>Termination for Convenience (General Provision)</u>
The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

<u>Termination for Default [Breach or Cause] (General Provision)</u>
If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may

terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)
The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach
In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts)
The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Termination for Default (Supplies and Service)
If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Transportation Services)
If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to

comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency may take over the work and compete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract.
3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Architect and Engineering)

The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency 's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contact or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Cost-Type Contracts)
The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

VETERANS HIRING PREFERENCE

Veterans Employment - Construction contracts of Federal financial assistance shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

VIOLATION AND BREACH OF CONTRACT

Disputes:
Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the agencies authorized representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the agencies authorized representative shall be binding upon the Contractor and the Contractor shall abide be the decision.

Performance during Dispute:
Unless otherwise directed by the agencies authorized representative, contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages:
Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies:
Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the agencies authorized representative and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Agency is located.

Rights and Remedies:
Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by the Agency or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

OTHER RECOMMENDED CONTRACT REQUIREMENTS

CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

(1) The contractor certifies that it:
   (a) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
   (b) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third Party Agreement with the Third Party Participant without FTA's written approval.

(2) Flow-Down. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.

SEVERABILITY
The Contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

TRAFFICKING IN PERSONS

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

(a) Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;

(b) Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or

(c) Use forced labor in the performance of the Recipient's Award or subagreements thereunder.

EXHIBIT F
MEDICAL QUALIFICATION PROGRAM SERVICES RFP
NON-COLLUSION AFFIDAVIT

(STATE OF)
(COUNTY OF)

I,____________________________of the___________in the County of___________, State

of_________________________________, of full age being duly sworn according to law on my oath

depose and state that:

I am_____________________of the firm ________________________.

_________________________, a company submitting a proposal inclusive upon the above named project, and that I executed said proposal with full authority to do so: that said proposer has not, directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named project; and that all statements contained in said proposal and in this affidavit are true and correct, and made with full knowledge that INCOST relies upon the truth of the statements contained in said proposal and in the statements in this affidavit in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bonafide employees or bonafide established commercial or selling agencies.

Attested by ____
(Witness)

____
Signature of Authorized Official
Proposing Company

____
Typed or Printed Name of Authorized Official

____ ____________________________________
Title

____
Date

EXHIBIT G
CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, ____ hereby certify
(Name and title of official)
on behalf of ____ that:
(Name of Bidder/Company Name)

- 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 agency, a Member of Congress, and 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 agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned 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 31 U.S.C. § 1352. 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 such failure.

Name of Bidder/Company Name: ____

Type or print name: ____

Signature of authorized representative: ____________________ Date_____/______/_____