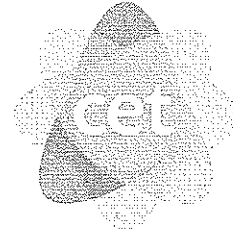


cascades east
transit



CENTRAL OREGON INTERGOVERNMENTAL COUNCIL

CASCADES EAST TRANSIT

REQUEST FOR QUALIFICATIONS
#CET 17-6

FOR

ON-CALL ARCHITECTURAL & ENGINEERING (A&E) SERVICES

July 6, 2017

CENTRAL OREGON INTERGOVERNMENTAL COUNCIL

Request for Qualifications (RFQ)

Cascades East Transit

The Central Oregon Intergovernmental Council (COIC) is requesting Statements of Qualifications from architectural and engineering firms interested in contracting with the organization. COIC desires to contract with a firm that can provide services described herein to COIC on an as-needed basis. Contractors will be selected on the basis of qualifications in accordance with State and Federal procurement requirements. More detailed information regarding this opportunity can be found in this document.

Three hard copies of the Statements of Qualification, signed by a principal of the firm (one signed original and two copies), and one (1) electronic version (in PDF format) are to be delivered to the address listed below no later than 3:00 PM on Thursday, July 20, 2017.

Transportation Fiscal Services Administrator
dorr@coic.org
334 NE Hawthorne Avenue
Bend, OR 97701
541-389-7367 fax

Questions regarding the process should be submitted in writing (**email**, fax or mail).

The complete Request for Qualifications can be found within COIC's website at <http://coic2.org/open-procurements/>

I. INVITATION

The Central Oregon Intergovernmental Council (COIC) is requesting Statements of Qualifications (SOQ)'s from Architectural and Engineering (A&E) firms to provide services on an as-needed basis. These services shall cover engineering and architecture disciplines that will include electrical, mechanical, environmental, architectural, structural and civil engineering among others. Work tasks anticipated include the following: preparing topographical base maps, preparing construction drawings and preparing bid documents for public transit bus stop site improvements in Central Oregon.

II. BACKGROUND

Central Oregon Intergovernmental Council (COIC) runs the public transit system in Central Oregon, Cascades East Transit (CET). CET operates a fixed route system and a complementary paratransit service within the City of Bend. Additionally, CET operates an intra-city demand response service and an inter-city Community Connector service throughout Crook, Deschutes and Jefferson County. For more information refer to www.cascadeseasttransit.com. As a public transit provider, COIC is responsible for providing an accessible and American with Disabilities Act (ADA) compliant bus transit system and facilities; including all current and future transit stops, improvements, and amenities. These improvements need to meet the design standards of the communities where they are built.

III. PROJECT DESCRIPTION

The Central Oregon Intergovernmental Council (COIC) is planning for the expansion of Cascades East Transit (CET) public transit services over the next three years. This will include the addition of ADA compliant transit stops, signage, benches, shelters and passenger amenities. COIC wishes to implement these improvements quickly as funding becomes available. To enable COIC Staff to respond quickly as needs become apparent and funding is secured, COIC has determined that it would be advantageous to secure the services of an on-call Architectural and Engineering (A&E) firm at this time.

The tasks COIC Staff anticipate assigning include the following:

- Conducting Phase I Environmental Site Assessments,
- Preparation of topographical base maps,
- Perform traffic studies and perform geotechnical work
- Preparation of land use requirement/zoning summaries,
- Preparation of conceptual designs and construction drawings,
- Preparation of construction bid documents,
- Preparation of and submittal permits,
- Construction Management.

The above list is described in more detail in Section VI herein. Neither this list, nor the Scope of Work provided in Section VI, is meant to be an exhaustive list of all of the work COIC will need completed within the contract period.

IV. PERIOD OF PERFORMANCE

COIC intends to enter into a minimum of one (1) "on-call" agreements for a term of three (3) years. The tentative contract period is August 1 2017 through July 31 2020.

V. SPECIFICS OF CONTRACT AWARD

Type of Contract: Indefinite Delivery/Indefinite Quantity (ID/IQ) master contract

The resulting contract will be an on-call, multiple-award task order based master contract with agreed upon rates for professional services for the life of the contract. When the need for services under this contract is identified, COIC Staff will issue a task order and negotiate a fixed number of hours for the work envisioned to be completed. If the two parties are unable to agree on the number of hours to accomplish the task, or if the firm is not available for the project at the time the need arises, COIC reserves the right to have the work to done outside of this contract via another solicitation process.

The issuance of this Contract does not guarantee the contractor any particular amount of work or any assignment of work during the term of the Contract. The selected A&E firm will be limited to an amount of \$80,000 per contract year with a maximum aggregate of \$200,000 for three years.

VI. PRELIMINARY SCOPE OF WORK (including sample tasks and deliverables)

A. Topographical Survey and 30% Design

Topographical survey and 30 percent design based on the conceptual design provided showing project requirements and a general layout of facilities required.

Topographic surveys will include all features, both man-made and natural, within the project area that impacts the design and construction. The surveys will include all field data required for preparing an accurate civil base plan for the project with contours (1-foot and 5-foot minor and major, respectively); all existing utilities, including, but not limited to, overhead wires with poles and anchors with ground clearances; surrounding culture such as business signs, retaining walls, landscaping and trees (including tree species), driveways, mailboxes, fences, and irrigation infrastructure; existing roadway features including pavement lanes, bike lanes, sidewalks and street signs.

CONTRACTOR will call the Utility Locate Center and request a field locate to locate utilities. After utility locates are complete, all utilities (underground and overhead) will then be field surveyed, verified with the utility and shown on the plan. If necessary, the locations will be identified as approximate and noted as shown for information purposes only.

Survey work also includes the location and/or establishment of sufficient control points which can be accurately located in the field. The control points established will be permanent in nature. Survey maps may assume a local datum.

Thirty percent design will include a horizontal representation of proposed facilities drawn to scale. Conflicts and proposed design solutions to said conflicts will be identified. The limits of proposed improvements will be clearly identified.

B. 95% Complete Design Submittal

Ninety-five percent complete design submittal. CONTRACTOR will review and respond to any comments provided as a result of the 30 percent review.

CONTRACTOR will participate in design review meeting to discuss response to 30 percent comments and incorporation of changes. Ninety-five percent drawings will incorporate comments and changes as a result of 30 percent design review meeting.

This submittal of 95 percent drawings is to be essentially complete, and suitable for the appropriate municipality plan review processes. The technical documents will include a unit price bid format breakdown and division of specifications.

C. Final Design Submittal

CONTRACTOR will review and respond to staff comment provided as a result of the 95 percent review. Final drawings and bid package will incorporate comments and changes as a result of 95 percent comments and final review meeting with Project Engineer. The Engineer of record will place their professional seal upon the technical sections (bid schedule, special specifications, and special provisions) of the final bid document prepared by COIC.

D Application and Management for all required permits

CONTRACTOR will review and ensure design development is in compliance with approved project design criteria, as well as the appropriate municipality planning along with, zoning and design criteria.

CONTRACTOR will provide all required interface with the appropriate municipality to acquire all necessary permits and easements necessary for the project, including but not limited to design review meetings; zoning; and planning meetings, etc.

E. Completion and submittal of select bid documents

CONTRACTOR will provide detailed civil, structural, architectural, electrical, and mechanical drawings and technical specifications as well as any other drawings or documents necessary for successful and cost-effective bidding for construction.

CONTRACTOR will provide detailed construction cost estimate(s) to be utilized for construction bidding purposes and budgeting for all segments of potential projects including civil, building, structural and mechanical work.

CONTRACTOR will analyze and report to COIC the cost of various design and construction elements and alternatives sought by COIC in the performance of their work, to ensure costs remain within available budgets. As a part of the cost analysis effort, CONTRACTOR is expected to continually consider alternatives and costs related

to efficiency, useful life, maintenance, energy and operations.

F. Construction Management

CONTRACTOR will serve as COIC's agent, providing a single point of contact between the general contractor selected by COIC to build the transit hub and COIC. This will include managing project progress, ensuring adherence to design specifications and schedule, ensuring compliance with all building and safety codes, and communicating with COIC and the appropriate municipality about necessary modifications.

G. Phase I Environmental Site Assessment (ESA)

Site development associated with transit projects and federal funding. In general, follow requirements of the United States Environmental Protection Agency (EPA). This may entail review of applicable environmental databases, a review of readily available records to document the past and current uses of the subject property and adjoining properties, interviews with persons with knowledge of the site, a site reconnaissance, and a final report summarizing.

VII. TENTATIVE SOLICITATION SCHEDULE

The following is an anticipated schedule for the selection process, with COIC reserving the right to modify any part of this schedule.

- **RFQ Issued** July 6, 2017
- **Clarification Questions Due** July 14, 2017
- **Answer to Clarification Questions** July 17, 2017
- **Statement of Qualifications Due.** 3:00 PM July 20, 2017
- **Selection of Most Qualified Firm**..... July 21, 2017
- **Notice of Intent to Negotiate a Contract** July 21, 2017
- **Master Contract Execution Completed** July 31, 2017

VIII. STATEMENTS OF QUALIFICATION

To be considered for the award, Respondents must submit a Statements of Qualification in a timely manner and in proper form. Each submittal must include:

1. Firm Overview

- a. Brief profile of the firm, and the qualifications and resumes of the professionals who will work directly on this project.
- b. Description of the firm's approach to providing services such as those outlined in the Scope of Services.
- c. A list and description of any lawsuits filed against the firm during the preceding three years, and any litigation currently pending or threatened in conjunction with the types of services described herein.

2. Qualifications and Experience

- a. Description of the firm's experience in this region and nationally with respect to engineering services.

- b. Description of the process the firm will use to carry out the described project.

3. Personnel

Provide a professional resume for the key people proposed to be assigned to the project (including any important sub-consultants), and describe relevant related experience. Describe key personnel's proposed roles and responsibilities on this project. Submittals must identify a proposed project manager, who would be responsible for the day-to-day management of project tasks and would be the primary point of contact with your firm. An organization chart of the project team may be appropriate.

4. Client References

Please provide client references for the key professionals in your firm who will be assigned to this project. The responder must have worked directly with the particular agency on a completed, relevant project.. Provide the name, address, e-mail, and telephone number for each reference, along with the date of the referenced project.

5. Client Listing

Please provide a list of your firm's current clients for whom relevant services have been performed.

6. Required Forms

Respondent's Certification (Attachment A) Certification Form (Attachment B) forms must be signed and included with the Statement of Qualifications. Failure to include these two documents signed by a qualified firm representative will disqualify the Proposer and the response will not be considered.

IX. SUBMISSION REQUIREMENTS

Submittals must be on standard letter-size paper (8.5"x11") and have a minimum font size of twelve points. A one or two page cover letter should be submitted, which shall include a point of contact for the firm. The proposal should be made on official letterhead and bear the name, title, and signature of a duly authorized officer of the responding company. Submittals should address all areas described in the 'STATEMENTS OF QUALIFICATION' section and submitted in the same order as listed.

COIC must receive responses no later than 3:00 PM on Friday, September 4, 2015. Any submission or part thereof received after the designated time will not be considered. The final selection will be based on the firm that best meets the needs of COIC, at its sole discretion. Statements of Qualification shall be valid for one hundred and twenty (120) days after the deadline for responses.

COIC reserves the right to reject any or all firms, to waive any informality or irregularity in any information received, and to be the sole judge of the merits of the proposals received. All proposals shall be prepared by and at the expense of the proposer.

X. EVALUATION CRITERIA

The Evaluation Committee shall recommend contract negotiations begin with the most qualified firm that is determined to be both responsive and responsible.

Only proposals including both Respondent's Certification (Attachment A) Certification Form (Attachment B) forms signed by a qualified firm representative will be considered. Statements of Qualification will be evaluated based upon criteria formulated around the most important features of the service, of which quality, capabilities, service offerings, customer experience and references may be overriding factors in the issuance of a contract or award. The Statements of Qualification evaluation criteria, included but not limited to those identified in this document, should be viewed as standards, when measured how well a Respondent's approach meets the desired qualifications and needs of the users.

The Evaluation committee when evaluating the Statements of Qualification will consider the following factors and their coinciding weight:

<u>Rating</u>	<u>Criteria</u>
50%	The firm's demonstrated qualifications, technical expertise, and working knowledge to deliver quality performance of the scope of work. Demonstrated experience and qualifications of key staff that will be assigned to this project. The listed staff experience shall be closely aligned to the general scope of work.
30%	Demonstrated ability to complete work competently and efficiently and to design projects within budgetary constraints by suggesting and advocating for low-cost solutions.
20%	Demonstrated ability to perform work to schedules (show current and projected work load). Firms will be evaluated in terms of impact of this work load on the staff's projected work load during the contract period. For projects referred to above, please provide evidence of how construction progress compared to the original schedule.

In the process of evaluation, COIC may acquire and utilize, to the extent deemed necessary, information obtained from the following sources:

1. Respondents, including representatives and other data contained in the Statements of Qualification, or other written statements of commitments, such as subcontracting, and references.
2. Other existing information available to COIC concerning Respondent's performance.

Background investigations of Respondent's submitting Statements of Qualification may be made to verify information furnished or to secure additional information COIC may deem necessary or desirable.

XI. SELECTION PROCEDURE

COIC will rank firms based on qualifications in specific categories. Firm selection will be qualification based in accordance with the "Brooks Act" as defined by FTA Circular 4220.1F.

COIC will consider all of the Offeror's materials to determine whether the Offeror's proposal is in compliance with the terms and conditions set forth in this RFQ. Offerors must submit all required information in the manner described, unless otherwise waived by COIC, in order for the Statement of Qualifications to be considered responsive.

COIC reserves the right to reject any or all Statements of Qualification, to waive minor formalities and technicalities in any Statements of Qualification, to solicit new Statements of Qualification, or to accept any Statements of Qualification which are deemed to be more advantageous to COIC.

The Evaluation Committee will evaluate the Statements of Qualification received from the Respondents and make a selection based on the Statements of Qualification using the selection criteria stated below. Determination of the short-listed Respondent(s) will be based on Authority's review of the Statements of Qualification which best meets this RFQ.

The Evaluation Committee shall recommend contract negotiations begin with the most qualified firm that is determined to be both responsive and responsible.

COIC Staff shall then determine if the most qualified Offeror is responsible. The successful Offeror must equal or exceed the FTA specified General Standards of Bidder Responsibility criteria set forth in Exhibit B and be able to show evidence of background of such. COIC, in its sole discretion, shall determine whether Contractor is a "Responsible Bidder" and meets the standards set forth in ORS 279B.110 and ORS 279B.130. COIC reserves the right to investigate the qualifications of all Offeror under consideration and to confirm any part of the information furnished by a Offeror, or to require other evidence of managerial, financial or technical capabilities which are considered necessary for the successful performance of the work.

COIC reserves the right, pursuant to ORS 279B.110 and OAR 137-047-0640(1)(c)(F), to investigate and evaluate, at any time prior to award and execution of the Agreement, the apparent successful Offeror 's responsibility to perform the Agreement. Offeror's submission of the Statement of Qualifications constitutes Offeror 's authorization for COIC to obtain, and Offeror 's agreement to produce for COIC's review and copying, any information COIC deems necessary to conduct the evaluation. COIC shall notify the apparent successful Offeror, in writing, of any other documentation required, which may include, but is not limited to, recent profit-and-loss history; current balance statements; assets-to-liabilities ratio, including number and amount of secured versus unsecured creditor claims; availability of short and long-term financing; bonding capacity; credit information; materials/equipment/inventory; facility and personnel information; record of contract performance; etc. COIC may reject a Proposal, if Offeror fails to promptly provide this information. COIC may postpone the award of the Price Agreement after announcement of the apparent successful Offeror in order to complete its investigation and evaluation. Failure of the apparent successful Proposer to demonstrate Responsibility, as required under ORS 279B.110 and OAR 137-047-0640(1)(c)(F), shall render the Offeror non-responsible and shall constitute grounds for Offer Rejection.

COIC Staff shall then negotiate a contract with the highest qualified Respondent for the services to be rendered at a compensation level which COIC determines to be fair and reasonable. Should COIC be unable to negotiate a satisfactory contract with the Respondent considered to be the most qualified, negotiations with the firm shall cease and COIC shall then undertake negotiations with the second most qualified Respondent. The same process shall be employed between COIC and the second Respondent and if unsuccessful, COIC shall undertake negotiations with the third most qualified Respondent.

Should COIC be unable to negotiate a satisfactory contract with any of the selected Respondents, COIC may select from additional Statements of Qualification in ranked order based on their competence and the information submitted. COIC further reserves the right to reject any or all Statements of Qualification, or to waive formalities, irregularities or technicalities.

XII. FINANCIAL RESPONSIBILITY

COIC accepts no financial responsibility for any costs incurred by a firm in responding to this RFQ.

XIII. PROCUREMENT PROTEST PROCEDURES

COIC must adhere to and be in conformance with the State Statutes (primarily section ORS 279), the Attorney General Model Rules and the COIC adopted Procurement Policy. In this regard all protests/disputes will be subject to these rules and policy. Termination or other disputes which may result in judicial review are subject to Sections ORS 279B.400, 279A.065 as applicable, and Attorney General Model Rules Section 137-047-700 (Legal remedies) "Protests and Judicial Review of Special Procurement". These rules state that before seeking judicial review of termination action, or other action, that the affected CONTRACTOR must file a written protest directed to COIC and must exhaust all administrative remedies. Should any dispute arise between the parties concerning this contract which is not resolved by mutual agreement, it is agreed that it will be submitted to mediated negotiation prior to any party commencing litigation. In such an event, the parties to this contract agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the parties, but in the absence of such agreement each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by the parties. CET's Procurement Protest Procedures are described in Exhibit C within this document.

XIV. SUBCONTRACTING

Contractor shall not subcontract services, in whole or in part, without COIC's prior written approval. Contractor shall require any approved subcontractor to agree, as to the portion subcontracted, to comply with all obligations of Contractor specified in this Contract.

Notwithstanding the COIC's approval of a subcontractor, Contractor shall remain obligated for full performance of this Contract and COIC shall incur no obligation to any subcontractor. Contractor shall indemnify, defend, and hold COIC harmless from all claims of subcontractors.

XV. ORGANIZATIONAL CONFLICT OF INTEREST

Federal Transit Administration (FTA) Circular 4220.1F, Chapter VI, Paragraph 2(a) (4)(h) prohibits a Contractor that is awarded the design/project management portion of a COIC project from participating, as a prime or subcontractor, in the construction phase of the project.

ATTACHMENT A

RESPONDENT'S CERTIFICATION

The individual executing this Statements of Qualification on behalf of a Respondent represents and warrants that he/she has been authorized to do so by the Board of Directors or other concerned parties who have an interest in the business.

The individual executing this proposal certifies with their signature below that the information contained in the Statements of Qualification is true and accurate to the best of their knowledge and acknowledges that COIC reserves the right to reject any Statements of Qualification found to contain fraudulent information.

No Statements of Qualification shall be accepted which has not been signed in the appropriate space(s) below.

COIC is soliciting competitive Statements of Qualification pursuant to a determination that such a process best deserves the interests of COIC and the general public. COIC reserves the right to accept any or all Statements of Qualification; to waive any formality of the Statements of Qualification form; to modify or amend, with the consent of Respondent, any Statements of Qualification prior to acceptance; to waive irregularities, and; to make a recommendation not based solely on the highest Statements of Qualification, all as COIC in its sole judgment may deem to be in COIC's best interest. Respondents shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of the Statements of Qualification, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final Statements of Qualification. There shall be no disclosure of any information derived from Statements of Qualification submitted by competing Respondents. If successful Respondent refuses to enter into the contract, the right is reserved to accept the Statements of Qualification of any other qualified Respondent without re-advertising.

I affirm that I have read and understand all the provisions set forth in this RFQ invitation. I, the undersigned, guarantee our Statements of Qualification meets or exceeds specifications contained in the RFQ document. Our firm will comply with all provisions and conditions as specified. All requested information has been submitted as requested.

NAME & TITLE

SIGNATURE

ATTACHMENT B CERTIFICATION FORM

In submitting this proposal, the undersigned certifies on behalf of its firm and any proposed subcontractors as follows:

Non-Collusion Certification: Has made this Statement of Qualifications independently, without consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to this Request for Qualifications with any other FIRM or with any other competitor,

Non-Conflict Certification: Represents and warrants that no employee, official, or member of the COIC's Board of Directors is or will be personally benefitting directly or indirectly in this Contract,

FTA Requirements: The services described in this RFQ are to be purchased with the assistance of a Grant from the Federal Government under the Federal Transit Administration, Department of Transportation. The offeror hereby certifies that it will comply with all terms and conditions prescribed in third party contracts in a grant contract between the United States of America and COIC. Exhibit A within the CET 17-6 Request for Qualifications lists the third party contract provisions that are applicable to this project.

Non-Inducement Certification: The undersigned hereby certifies that neither it nor any of its employees, representatives, or agents have offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any director, officer, or employee of COIC with the view toward securing favorable treatment in the awarding, amending, or the making of any determination with respect to the performance of this Contract.

Non-Debarment Certification: Certifies that neither the FIRM, or any of its Principals, is 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, and from Federal programs under DOT regulations 2CFR Parts 180 and 1200, or under the FAR at 48 CFR Chapter 1, Part 9.4

Integrity and Ethics: Has a satisfactory record of integrity and business ethics, in compliance with 49 U.S.C. Section 5325(j)(2)(A)

Public Policy: Is in compliance with the public policies of the Federal Government, as required by 49 U.S.C. Section 5325(j)(2)(B)

Administrative and Technical Capacity: Has the necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them, in compliance with 49 U.S.C. Section 5325(j)(2)(D)

Licensing and Taxes: Is in compliance with applicable licensing and tax laws and regulations

Financial Resources: Has, or can obtain, sufficient financial resources to perform the contract, as required by 49 U. S. C. Section 5325 (j)(2)(D)

Timeliness: Is able to comply with the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.

Performance Record: Is able to provide a satisfactory current and past performance record.

Signature

Printed Name

Title

Date

EXHIBIT A
FEDERAL REGULATIONS & REQUIRED THIRD-PARTY CONTRACT CLAUSES

ALL OR PART OF THIS CONTRACT IS FEDERALLY FUNDED. CONTRACTOR shall comply with the following applicable federal regulations in addition to all other specifications, terms and conditions of this Invitation for Bid or Request for Proposal. As used in these regulations,

4. CARGO PREFERENCE REQUIREMENTS

46 U.S.C. 1241

46 CFR Part 381

Cargo Preference - Use of United States-Flag Vessels - The contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading 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 the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) 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.

6. ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.

49 CFR Part 18

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.

7. CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

Clean Water - (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. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

11. ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325

18 CFR 18.36 (i)

49 CFR 633.17

Access to Records - The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three 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 Contractor agrees to maintain same until the Purchaser, the FTA

Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

7. FTA does not require the inclusion of these requirements in subcontracts.

12. FEDERAL CHANGES

49 CFR Part 18

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

No Obligation by the Federal Government.

(1) The Purchaser 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 Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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

20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

31 U.S.C. 3801 et seq.

49 CFR Part 31 18 U.S.C. 1001

49 U.S.C. 5307

Program Fraud and False or Fraudulent Statements or Related Acts.

(1) 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.

(2) 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. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) 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.

21. TERMINATION

49 U.S.C. Part 18

FTA Circular 4220.1F

a. Termination for Convenience (General Provision) COIC may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government'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 COIC to be paid the Contractor. If the Contractor has any property in its possession belonging to COIC, the Contractor will account for the same, and dispose of it in the manner COIC directs.

b. Termination for Default [Breach or Cause] (General Provision) 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, COIC 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 only be paid 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 COIC 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, COIC, 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.

c. Opportunity to Cure (General Provision) COIC in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) days 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 COIC's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days] after receipt by Contractor of written notice from COIC setting forth the nature of said breach or default, COIC 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 COIC from also pursuing all available remedies against Contractor and its sureties for said breach or default.

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

condition of this Contract.

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

f. 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, COIC may terminate this contract for default. COIC 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 Recipient.

g. 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, COIC may terminate this contract for default. COIC 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 Recipient goods, the Contractor shall, upon direction of COIC, protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and COIC 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 COIC.

h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure 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 provisions of this contract, COIC may terminate this contract for default. COIC shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete 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 Recipient 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 Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor did the Contractor charge 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 the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The Contractor, within [10] days from the beginning of any delay, notifies COIC in writing of the causes of delay. If in the judgment of COIC, the delay is excusable, the time for completing the work shall be extended. The judgment of COIC shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

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 the Recipient.

i. Termination for Convenience or Default (Architect and Engineering) COIC may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. COIC 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 Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the 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 Recipient may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

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 Recipient.

j. Termination for Convenience or Default (Cost-Type Contracts) COIC 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 COIC 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 COIC, or property supplied to the Contractor by COIC. If the termination is for default, COIC 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 COIC and the parties

shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of COIC, 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, COIC determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, COIC, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:tyrone1

The certification in this clause is a material representation of fact relied upon by COIC. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to COIC, 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 49 CFR 29, Subpart C 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.

24. CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000

42 U.S.C. § 6102, 42 U.S.C. § 12112

42 U.S.C. § 12132, 49 U.S.C. § 5332

29 CFR Part 1630, 41 CFR Parts 60 et seq.

Civil Rights - The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and 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, creed, national origin, sex, age, or disability. In addition, the

Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 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.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

28. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 CFR Part 26

Disadvantaged Business Enterprises

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is .5 %. A separate contract goal has not been established for this procurement.

b. The contractor 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 CFR Part 26 in the award and administration of this DOT-assisted contract. 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 COIC deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).

30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

FTA Circular 4220.1F

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any COIC requests which would cause COIC to be in violation of the FTA terms and conditions.

32. ADA ACCESS

42 U.S.C. § 12101 et seq.,

29 U.S.C. § 794,

49 U.S.C. § 5301(d)

American with Disabilities Act (ADA) Access - Contractor shall at all times comply with all applicable requirements of the American with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; 49 U.S.C. § 5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this Agreement.

NOTIFICATION OF FEDERAL PARTICIPATION

This contract may be financed in part by the Federal Transit Administration (FTA). Accordingly, federal requirements apply to this contract. In the event that those requirements are revised during the performance of this contract, the Contractor shall incorporate those revised provisions mandated by the FTA.

FLOW DOWN REQUIREMENTS

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

LOBBYING

Comply, and assure the compliance of each third party contractor at any tier and each sub-recipient at any tier, with U.S. Department of Transportation regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352. Contractor shall certify that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or

employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures shall be forwarded to COIC. Contractor shall ensure that all of its Subcontractors under this Contract shall certify the same. Prior to execution of this Agreement, Contractor shall submit the "Certification Regarding Lobbying," included in the contract documents.

SEISMIC SAFETY REQUIREMENTS

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 Seismic Safety Regulations 49 CFR 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 Sub-Contractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

CLEAN AIR

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.* The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

ENVIRONMENTAL PROTECTION

The Contractor agrees to comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 *et seq.*, Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; FTA statutory requirements at 49 U.S.C. § 5324(b); Council on Environmental Quality regulations pertaining to compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Part 1500 *et seq.*; the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622, and, when promulgated, FHWA/FTA joint regulations, "NEPA and Related Procedures for Transportation Decision making, Protection of Public Parks, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. Part 1420 and 49 C.F.R. Part 623.

PRIVACY ACT

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

1. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government.

The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

2. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

EXHIBIT B

General Standards of Proposer Responsibility

To be determined responsible, a prospective contractor must meet all of the following requirements:

- Neither the firm, nor its principles show up on the Federal government's debarment and suspension website, www.sam.gov. This site denotes those individuals and firms that currently are prohibited from participating in Federally funded contracts.
- Financial resources adequate to perform the contract, or the ability to obtain them;
- Ability to meet the required delivery or performance schedule, taking into consideration of all existing commercial and governmental business commitments;
- A satisfactory performance record;
- A satisfactory record of integrity and business ethics;
- The necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them;
- Compliance with applicable licensing and tax laws and regulations;
- The necessary production, construction and technical equipment and facilities, or the ability to obtain them;
- Compliance with Affirmative Action and Disadvantaged Business Program requirements; and
- Other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations.

EXHIBIT C
CASCADES EAST TRANSIT
PROCUREMENT PROTEST PROCEDURES

Under certain circumstances, an interested party to a procurement may protest to COIC the award of a contract which may or may not involve the direct application of public funds. COIC will make protest procedures accessible to bidding parties. These procedures are intended to ensure that valid complaints are properly handled and responded to. These procedures apply to all types of procurement actions, including sealed bids, requests for proposals, etc.

The term protest is utilized to describe the controversies that arise usually during the contract information process as an objection to a contract award or to a decision on a specific bid. The protests are challenges to actual or proposed actions of the contracting officers on specific procurements. These objections are brought by offerors, prospective offerors, or other interested parties who contend that they have been improperly treated in the procurement process. All protests must be submitted in writing.

COIC Level One Protest Procedures – General Conditions

COIC's review of any protest will be limited to violations of state or local laws or regulations, violations of COIC's purchasing procedures, violations of COIC's protest procedures, or failure to review a complaint or protest. Protests based on restrictive or severely defective specifications, or improprieties in any type of solicitations that are apparent prior to bid opening or closing date for proposals, must be received by COIC within a reasonable time in advance of scheduled bid opening but no later than 5 days after receipt of the RFP/IFB by the proposer/bidder. All other protests must be received by COIC within 5 days of the action on which the protest is based.

The initial protest filed with COIC shall be in writing and shall:

- a) Include the name, address, and telephone number of the protestor and the name of a contact person
- b) Identify the number, date, and description of the solicitation
- c) Contain a statement of the grounds for protest and any supporting documentation. The grounds for the protest must be supported to the fullest extent feasible. Additional materials in support of an initial protest will be considered only if filed within the time limits specified
- d) Indicate the ruling or relief desired from COIC

A protest may be considered, even if the initial filing is late, under the following circumstances:

- a) Good cause based on compelling reasons beyond the protestor's control, whereby the tardiness is due to the fault of COIC in the handling of his/her protest submission
- b) COIC determines the protest raised issues significant to a procurement practice or procedure
- c) COIC is directed by a relevant grantee to either consider or reconsider a protest

- d) A court of competent jurisdiction expresses interest in COIC's decision

No formal briefs or other technical forms of pleading or motion are required, but a protest and other submissions should be concise, logically arranged, clear, and legible. Any additional information requested or required by COIC from the protestor, or interested parties shall be submitted as expeditiously as possible, but in no case later than five (5) days after the receipt of such request unless specifically stated by COIC.

Confidentiality

Materials submitted by a protestor will not be withheld from any interested party outside of COIC or from any government agency that may be involved in the protest, except to the extent that the withholding of information is permitted or required by law or regulation. If the protestor considers that the protest contains proprietary materials that should be withheld, a statement advising of this fact may be affixed to the front page of the protest document and the alleged proprietary information must be so identified wherever it appears.

Furnishing of Information on Protests

COIC shall, upon request, make available to any interested party, information bearing on the substance of the protest, including:

- a) Any other documents that pertain to the protest, including correspondence with the bidders
- b) A statement by COIC explaining its actions and the reasons for them

A conference on the merits of the protests with members of COIC protest review panel (defined below) may be held at the request of the protestor. The request for a conference should be made in a timely manner so as not to interfere with the resolution of the protest and not later than twenty (20) days after the initial protest was filed.

Withholding of Award

When a protest has been filed before the opening of bids, COIC will not open bids prior to the resolution of the protest. When a protest has been filed after the opening of bids but before the contract award, COIC will not make an award for five days following its decision on the protest. When a protest has been filed after the award but prior to the execution of a contract, COIC will not proceed with the execution of the contract prior to the resolution of the protest. Exceptions to the above may occur if COIC determines that:

- a) The items to be procured are urgently required
- b) Delivery or performance will be unduly delayed by failure to either make the award promptly or to continue with the procurement
- c) Failure to make prompt award or to continue with the procurement will otherwise cause undue hardship to COIC or other local, state, or federal governments

If government agency funds are involved, COIC will notify the appropriate agency in a timely manner and keep the agency apprised of the status of the protest.

Protest Review – Level One

Upon receipt of a protest, the Executive Director will appoint an ad hoc COIC protest review panel to review all relevant materials associated with the protest. The panel shall be comprised of at least two representatives of COIC appointed by the Executive Director. The panel shall determine the validity of the protest and what actions will be taken.

The panel will be directed to prepare a report within fifteen (15) days. The panel will notify the protestor and any interested parties of their findings and actions and of the procedures for requesting reconsideration. The report shall include the following:

- a) Copies of all relevant documents
- b) A copy of the invitation for bid or request for proposal, including pertinent provisions of the specifications
- c) A copy of the abstract of bids.

Protest Review – Level Two

Reconsideration of a decision by COIC may be requested by the protestor or any interested party. The request for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered.

The request for reconsideration of COIC's protest review panel decision shall be filed no later than ten (10) days after the panel issues its written report, and shall be filed with the Executive Director. Upon receipt of the request for reconsideration, the Executive Director shall schedule an informal administrative hearing with protestor and the COIC protest review panel. The hearing shall be held not later than fifteen (15) days after the receipt of the request for reconsideration.

The Executive Director has the authority to make the final decision on all protests. The Executive Director shall issue in writing, COIC's final determination of the reconsidered protest within five (5) days of the administrative hearing. The appellant process ends with the Executive Director's decision; however, the aggrieved party has those remedies afforded by the state courts.

Effect of Judicial Proceedings

COIC may refuse to decide any protest where the matter involved is the subject of litigation before a court of competent jurisdiction, or has been decided on the merits by such a court.

Federal Transit Administration (FTA) Protest Procedures

A protestor wishing to file a protest with FTA should consult FTA Circular 4220.1F for details on FTA's bid protest procedures. Circular 4220.1F reinforces FTA's policy of limiting involvement in the affairs and activities of grantees.

Each authority is responsible for the settlement of all contractual and administrative issues arising out of procurements entered into in support of a grant, and only in certain specific situations is it appropriate for FTA officials to become involved in those situations or to substitute their judgment for that of the grantee in the controversies.

The FTA will only review protests regarding the alleged failure of the grantee to have written protest procedures or alleged failure to follow such procedures. Alleged violations of a specific federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with that federal regulation. Alleged violations on other grounds are under the jurisdiction of the appropriate state or local administrative or judicial authorities.

Protests must be filed with the FTA, with a concurrent copy to COIC, within five (5) days after COIC renders a final decision or five (5) days after the protestor knows or has reason to know that COIC failed to render a final decision. After five (5) days, COIC will confirm with the FTA that the FTA has not received a protest on the contract in question.

Circular 4220.1F is available for review at COIC offices. A copy can be obtained from FTA at the following address:

Federal Transit Administration, Region 10
915 Second Ave., Ste. 3142
Seattle, WA. 98174

COIC shall not be responsible for any protests not filed in a timely manner with the FTA.