



Metropolitan Washington
Council of Governments

REQUEST FOR PROPOSALS NO. 23-003

ALTERNATIVE WATER SOURCES LEGISLATIVE EFFORT

Electronic submissions shall be uploaded to COG's
solicitation "Lockbox."
See Lockbox Instructions in Section IX.D

Proposals shall be uploaded no later than 2:00 p.m. EDT,

October 18, 2022

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REQUEST FOR PROPOSALS (RFP)
RFP# 23-003

Release Date – September 19, 2022

ALTERNATIVE WATER SOURCES - LEGISLATIVE EFFORT

I. SUMMARY

Services requested	The goal of this RFP is to gain the strategic advice and outreach, as needed, to the executive and legislative branches to diversify regional water supply and storage. This work will include a feasibility analysis on water options for Washington, DC and the surrounding areas. Gaining Congressional authorization and appropriations for the identified solutions.
Contract type	Monthly fixed price based on scope of work
Number of contract(s)	One
Duration of contract	Monthly from date of award to June 30, 2023 with option to renew up to two one-year terms on a month to month basis
Disadvantaged Business Enterprise (DBE) goal	DBE Plan form required for all submissions
Payment method	Net 30 days
Planned duration of RFP advertisement	4 weeks
Deadline for questions about RFP	5 working days before deadline
Deadline for COG responses to questions	3 working days before deadline
Deadline for proposals	October 18, 2022 @ 2PM EDT

II. METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

The Metropolitan Washington Council of Governments (“COG”) is the regional organization of the Washington area’s 24 major local governments and their governing officials, plus area members of the Maryland and Virginia legislatures and the U.S. Senate and House of Representatives.

COG provides a focus for action on issues of regional concern such as comprehensive transportation planning, air and water quality management, environmental monitoring, tracking economic development and population growth and their effects on the region, coordinating public safety programs, and promoting childcare and housing for the region.

COG is supported by financial contributions from its participating local governments, federal and state government grants, and contracts, and through grants and contracts from foundations and the private sector.

III. PROJECT OVERVIEW

Resilient water supplies support economic growth, new residents, and many other planning goals as prioritized by COG's Board of Directors. The Potomac River is an essential component for drinking water in the metropolitan Washington region, providing 78% of the water used for drinking, sanitation, hygiene, firefighting, and supporting critical infrastructure. The Potomac River is the sole source of drinking water for the District of Columbia and Arlington County. This is the only U.S. major metropolitan area without redundancy built into the water system.

Severe drought, natural disasters, accidental upstream chemical spills, and other risks to the region's water infrastructure are identified threats to the regional water supply. There is no backup source of water [storage or supply] to provide the resilience needed to keep our region safe and healthy. A severe incident would affect most of the approximately 5.7 million people who live and work in the area, including federal, state, and local government entities which require reliable and resilient water infrastructure to operate in the region. The full impact of a water supply shortage is not fully quantified, but the potential for a humanitarian and economic crisis should not be underestimated.

COG is leading a coalition that includes water utilities, government agencies, and the Interstate Commission on the Potomac River Basin (ICPRB) to advocate for the authorization and appropriation of a U.S. Army Corps of Engineers (USACE) feasibility study to assess alternatives and identify a preferred regional solution.

A regional feasibility study is the foundation for designing, permitting, constructing, and operating a long-term solution. This process will begin by going through the Water Resources and Development ACT (WRDA) process.

The US Army Corps of Engineers (USACE) took the first step by recommending the regional feasibility study for water supply resiliency capabilities for the region. Authorization language for the study was passed in U.S. House of Representatives in WRDA 2022 (H.R. 7776). Given the vulnerabilities to the primary water supply in the metropolitan Washington region, our current coalition is using their own resources to advocate for Congressional action and address a secondary water source through WRDA and the annual appropriations process by supporting the USACE feasibility study.

Our region needs Congress to authorize and appropriate funds for the USACE to move forward with a regional feasibility study. In the 2022, the USACE Report to Congress on Future Water Resource Development in the metropolitan Washington region was identified as eligible for authorization of a feasibility study in the WRDA 2022 to address the current sole source for water and significantly improve the region's security and resilience. The regional coalition (COG Coalition) will work together to identify federal funding for all phases of the identified solution.

IV. SCOPE OF WORK

A. TASKS

1. Create and revise comprehensive strategic plans for the COG coalition to execute through each phase of the federal legislative authorization and appropriations process. This will include identifying significant pieces of legislation, a suggested list of federal, state, and local stakeholders to engage to secure project funding, and a strategy for engagement.
2. Schedule and facilitate meetings with Congressional offices and other key stakeholders for COG to meetings with the Contractor providing support via research, materials, and advice. Meetings may also include state, regional and local elected and other public officials.
3. Develop water sector messaging to include talking points, supporting written and online materials, and graphic design as well as other public affairs and communication support as needed.
4. Identify legislative strategies outside of the traditional water sector legislation as pathways to diversify appropriation options.
5. Demonstrate established relationships, understanding and connections with national, regional and local water sector associations, organizations and sector leaders, including between the Interstate Commission on the Potomac River Basin (ICPRB) and COG.
6. Cultivate support and relations across regional government entities and the private sector to garner support for the effort.
7. Identify legislative strategies outside of the traditional water sector acts and committees.
8. Schedule and facilitate meetings with stakeholders for COG to lead, with the Contractor to provide materials.
9. Conduct weekly planning and strategy calls with COG coalition to coordinate securing the funding and legislation.
10. Work with the regional Congressional Delegation as well as COG member jurisdictions to develop support and champions for our effort.
11. Prepare for and participate in required reporting and progress meetings.

Contractor will be required to effectively manage and complete the Work in a timely and cost-effective manner. Contractor shall perform the Work in the best and most efficient manner, and the Work shall be in strict conformity in every respect with the CONTRACT and shall be subject to the supervision of COG, or its duly authorized representative.

B. STATEMENT OF QUALIFICATIONS

1. Provide information and have the expertise needed to achieve Project goals to diversify regional water sources and storage.
2. Comprehensive understanding of the Congress, its committees, and operations.

3. Considerable experience staffing the Senate Environment and Public Works Committee, Transportation and Infrastructure Subcommittee, or the House Transportation and Infrastructure Committee, Water Resources and Environment Subcommittee. Alternatively, experience staffing a regional member of Congress in committees with jurisdiction over water is desired. Ideally, the Contractor will have experience in both settings.
4. Extensive knowledge of water, water resources, source water protection, and drinking water issues, and related legislation and committees.
5. Demonstrated skills working with COG members and regional elected and other public officials, water utilities and ICPRB commissioners.
6. Familiarity with national and regional drinking water associations and their work and relationships as they pertain to meeting our goal.

C. PROJECT TIMELINE (SEE ALSO SECTION VII BELOW)

Initial - Nine (9) months to work on all aspects of Congressional authorization and appropriations to support the COG Coalition goal.

V. SPECIAL CONDITIONS

The following conditions apply to the selected Contractor:

- A. Federal, state, or foreign taxes are not allowable. COG will provide a certificate of exemption upon request.
- B. Any work to be subcontracted to a Subcontractor shall be clearly identified and such Subcontractor shall be approved by COG prior to contract issuance.
- C. It is understood that funding for the ensuing contract is contingent upon COG receiving funds from the sponsoring agency. Should funding from the sponsoring agency be delayed, for any reason, COG shall make a concomitant delay in funding to the Contractor.
- D. Payment will be made to the Contractor monthly within 30 days following the receipt of a correct invoice from the Contractor and approval of the COG Project Manager. Contractor shall submit its final invoice within 30 days after the expiration of the Contract.
- E. Deliverables should be in common electronic formats and files and are not considered final and complete until the COG Project Manager has confirmed in writing that they have been accepted.

VI. INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS

- A. The Contract will be issued as a single award fixed price contract.
- B. COG may award a contract based on initial offers received without discussion. Therefore, each initial offer should contain the Offeror's best terms from a price and technical standpoint.

- C. COG may communicate with Offerors to clarify, verify, or obtain additional information about their past performance or experience
- D. COG will not provide debriefs to Offerors.

VII. PERIOD OF PERFORMANCE AND TYPE OF CONTRACT

- A. The period of performance shall be month to month from the execution of the Contract until June 30, 2023.
- B. The Contract may be extended by mutual agreement of COG and the Contractor by exercising an optional year, for month to month services one year at a time, for up to two (2) optional years beyond the above stated end date.
- C. Costs for any optional year(s) will be negotiated at the time of the renewal based on projected tasks.
- D. COG will provide a mutually agreed upon contract amendment for each option year exercised.

VIII. PROPOSAL FORMAT AND CONTENT

A. Proposal Document Organization

1. Technical Proposal Content (Separate Electronic File A)
 - a) Letter of Interest (1 page)
 - b) Table of Contents (1 page)
 - c) Management Plan – (up to 10 pages)

In this section of the proposal, Offerors must provide a detailed description of their approach for successfully managing and delivering the Scope of Work set forth in this RFP for the Project.

- d) Qualifications of the Firm, Past Performance, and Key Personnel (up to 10 pages excluding resumes)
 - 1) This section shall provide the professional credentials and expertise of the Offeror and key personnel assigned to this Project. This shall include a demonstration of the Offeror's understanding of the required Scope of Work and a demonstration of the Offeror's and its proposed personnel's capability to perform the required services described in the Scope of Work.
 - 2) For five (5) different project examples, provide a one-page description (i.e., 5 pages total) that describes the projects the Offeror has successfully completed and demonstrate how professional planning services similar to those identified in the Scope of Work were successfully delivered. Projects included in this section ideally should

have been completed within the past three (3) calendar years within the National Capital Region.

2. Administrative Proposal (Separate File B)

(up to 15 pages)

- a) Proposal Form filled out completely and signed
- b) Breakdown of the costs of this Project on the form provided.
- c) Attachment B - CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS.
- d) Exceptions to the Terms and Conditions or other aspects of the RFP.
- e) DBE Plan and all DBE Certification letters (failure to provide DBE Certification documentation will result in no points awarded).
- f) The proof of insurance (Accord Form) must be submitted with this section. To be considered responsive the Offeror must meet the insurance requirements at the time of submission.
- g) Attachment F - PERMANENT CERTIFICATION REGARDING LOBBYING

3. References and Resumes (Separate Electronic File C)

- a) Attachment C – References (Form provided – up to 3 pages)

- 1) The Offeror and proposed Subcontractor(s) shall provide at least three (3) references whom COG may contact regarding similar work performed.
 - 2) All three of these references shall include work in which the key personnel proposed to COG have been assigned.

- b) Offerors may provide letters of reference from previous relevant clients. Names, titles, addresses, and telephone numbers shall be included for each reference. (up to 5 pages)

- c) Resumes of key personnel. (no more than 2 pages for each person)

B. Attachments and Acknowledgements - Offerors shall review and complete all attachments included in this RFP. These include:

1. Attachment A: Standard Terms and Conditions – acknowledge on Proposal Form and attach any exceptions with the pricing submission Electronic File B.
2. Attachment B: Certification Regarding Debarment, Suspension, and Other Responsibility Matters filled out and signed attached with the pricing submission

Electronic File B.

3. Attachment C: Contract References filled out and submitted with Electronic File C.
4. Attachment D: DBE Plan Form filled out and submitted with the pricing submission
Electronic File B.
5. Attachment F - PERMANENT CERTIFICATION REGARDING LOBBYING

E. The electronic submissions should be done in the following way:

- File A - Technical Proposal
- File B – Administrative Proposal, including Response Form, Exceptions, Attachment B, and DBE Plan, Certificate of Insurance
- File C – Resumes and Attachment C - References

This allows separate evaluation of pricing and keeps file sizes within needed parameters. Please upload the file into the correct slot.

IX. QUESTIONS, EXCEPTIONS, AND SUBMISSION INSTRUCTIONS

A. Questions

1. All questions concerning the RFP must be submitted in writing to the Contracts and Purchasing Office at purchasing@mwcog.org with a copy (cc) to rkonrad@mwcog.org at least five (5) business days prior to the final RFP deadline.
2. All questions will be answered and posted on COG's website as an addendum to this RFP within three (3) business days before the submission deadline.
3. No questions will be accepted following the cut-off date – see Section IX.A.1. above.

B. Exceptions

Proposers should note any exceptions of the RFP specifications or Terms and Conditions (including insurance requirements) on a separate sheet marked Exceptions and attached to the price submission. Exceptions taken do not obligate COG to change the specifications or Terms and Conditions.

C. Proprietary Information

Any proprietary information revealed in the submission should be clearly identified as such.

D. Electronic Submission Instructions

1. Proposals as designated below.
2. If the Offeror has not already been registered in the Mid-Atlantic Purchasing Team

(MAPT) Vendor Registration System (VRS), then they must start with that process. The link is <https://mwcog.net>.

3. Please use the RFP number (RFP 22-016), your firm's name, and File reference in the file name of your electronic submissions.
4. Offerors shall submit one (1) electronic copy of each File (A-C) in their proposal to the COG Lockbox system in accordance with the following directions.
 - a) Proposers shall submit one (1) electronic copy of each file to the COG "Lockbox" system in the following fashion:
 - 1) Registration – To utilize the "LOCKBOX" service, your agency **must** be registered on the Mid-Atlantic Purchasing Team Vendor Registration System (VRS) portal at <https://mwcog.net>.

If you are not registered, please do this before accessing the LOCKBOX.

To register:

- Go to the portal at <https://mwcog.net> and click the Vendors listing the left menu on the page.
- Click Register and fill out the form. NOTE: You will need your company information including your TIN/EIN number if you are a company or your SS if you are a sole proprietor.
- Registering will give you access to the LOCKBOX solicitations.
- Problems registering? Contact customerservice@eepex.com

- 2) Submission – Once registered in the VRS system go to the website at <https://mwcog.net> and click on the Solicitation Listings tab.

Those solicitations utilizing the VRS Lockbox service will be highlighted with a LOCKBOX button.

Click on the LOCKBOX button.

If your agency is interested in submitting a response to this solicitation, click on the REQUEST button. After providing the VRS vendor ID and VIN, you will receive a one-time use bid id and password by email.

Use your credentials for the following:

- To upload your formal bid response and any additional attachments to the lockbox (before the closing time for the solicitation)
- Please limit the size of individual files to 10 MB. If additional files are needed due to size limitations, please email customerservice@eepex.com and request additional file space.
- To withdraw your formal response should you desire to cancel your submission or to allow you to replace an already uploaded copy with a modified version

- To verify that the document in the lockbox is the one you uploaded.

If no vendor ID is provided, you will be directed to the registration page.

If you want to ensure that your company details are correct prior to your upload, then logon to VRS using your VRS vendor ID and VIN then jump to the vendor summary page in VRS to make any changes desired.

To return to the COG solicitation page, after registering or updating your company details, click SOLICITATION LISTINGS button on the VRS home page followed by clicking on the VIEW SOLICITATIONS button for COG on the PENDING SOLICITATIONS page.

Please do not wait until the last moment to register. The lockbox cannot be accessed after the closing date/time.

DO NOT email submissions directly to COG they will be disqualified.

X. METHOD OF PROPOSAL EVALUATION AND SELECTION

The proposals will be evaluated by a technical selection committee (TSC). The TSC may hold, at COG's option, a pre-selection meeting with the top-ranked Offerors.

The final recommendation for selection to the COG Contracting Officer may be made based upon interviews and/or a best and final offer submitted by the Offerors, if required by the TSC.

In evaluating the proposals, the following factors will be considered, with points awarded up to the maximum shown below.

Factor	Points
Qualifications of team members and demonstration of expertise regarding Congressional Members, Committees and staff for successful outcomes on appropriations and authorization, especially in the water sector.	30
Examples of previous water-focused legislative work.	20
Experience working on the identified topics; experience working with the water and related sectors as identified; and ability to work with a regional coalition comprised of water and wastewater utilities, local and state governments, and related agencies and organizations.	15
Cost and Price Analysis	10
Disadvantaged Business Enterprise (DBE) Participation	15
Total Points	100

XI. DISADVANTAGED BUSINESS ENTERPRISE

- A. Disadvantaged Business Enterprise (“DBE”) participation shall be an integral component of the Contractor selection process for this RFP. COG’s DBE Policy may be viewed on its website www.mwcog.org. Responding firms shall submit with their proposals a DBE Participation Plan to meet this goal. The plan shall identify any DBE (defined in 49 CFR Part 26) that shall be participating in the project. The plan shall include the name and address of the participating firm, a copy of the firm’s current DBE Certification from any federal, state, or local government agency that certifies DBE ownership. Failure to provide DBE Certification documentation with the DBE Plan Form will result in no points awarded.

Please note - DBE is a specific certification and is the only certification that will be accepted by COG for this purpose. No other certifications qualify for points.

- B. COG, in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000 d – 42 and Title 49, Code of Federal Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered pursuant to this advertisement will afford minority business enterprises full opportunity to submit bids in response to this invitation, and will not discriminate on the grounds of race, color, sex, or national origin in consideration for an award.
- C. DBE Assurance – 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 CFR Part 26 in the award and administration of USDOT 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 recipient deems appropriate.
- D. A total of 15 possible points (out of a maximum of 100 points) may be awarded for DBE participation, as measured in dollars, either as the Contractor or Subcontractor. In the event of a tie score between 2 or more proposals, the proposal with the largest percentage of DBE participation, as measured in dollars, will be awarded the contract. DBE points are to be awarded as follows:

Participation	Points
10% to 14%	3
15% to 19%	6
20% to 24%	9
25% to 34%	12
35% or more	15

Failure to have DBE participation does NOT disqualify a firm from being awarded a contract but will significantly lower to odds of winning a contract.

A DBE Plan form (Attachment D) must be submitted by all Offerors even if they do not have any DBE dollars in their proposal.

XII. COOPERATIVE RIDER CLAUSE

COG, as an agent to its member agencies, extends the right to utilize all of the terms, conditions, specifications, and unit or other prices of any contract resulting from this RFP to other public and non-profit agencies (Participating Agencies). This is conditioned upon mutual agreement based on the attached Rider Clause (Attachment E) of all parties pursuant to special requirements which may be appended thereto.

- A. Contractor(s) agrees to notify COG of the Participating Agencies' desire to use any contract resulting from this RFP within 30 days of receiving said requests and to fill out the form provided in Attachment E.
- B. All contracts resulting from this RFP shall be with the individual Participating Agencies. COG assumes no authority, liability, or obligation on behalf of any Participating Agency using a contract resulting from this RFP, or any Contractor, or any other entity with respect to this procurement or any contract resulting from it.
- C. Participating Agencies may have other or additional terms and conditions that must be met by the Contractor.
- D. All purchases and payment transactions will be made directly between the Contractor and the Participating Agency except where noted.

XIII. PROPOSAL RESPONSE FORM

RFP 23-003 Response Form (Page 1 of 2)

DATE: _____

Company Name - _____

PRICING BREAKDOWN

Tasks	Description	Costs
1	Monthly Costs	

Pricing for succeeding work beyond the original contract term will be based on quotations from a task order provided to the Contractor.

All work is based on available funding for each succeeding year.

Submission Check List and Required Forms –

ITEM	YES	NO
Attachment A – Acknowledge and accept all Terms and Conditions	—	—
<i>(if answered NO – T & C exceptions must be noted on a separate sheet with all other exceptions)</i>		
Attachment B – Certification Regarding Debarment	—	—
Attachment C – References	—	—
Attachment D – DBE form	—	—
Attachment E – Cooperative Rider Clause – Acknowledge	—	—
Accept Electronic Payment (See Terms and Conditions)		
P-Card	—	—
ACH	—	—
Insurance Acord Form – Proof of Insurance provided by the insurer as per the Terms and Conditions	—	—
Exceptions -	—	—
<i>(If yes please attach all on separate sheet(s) at the end of the RFP response.)</i>		

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
RFP 23-003 ALTERNATIVE WATER SOURCES - LEGISLATIVE EFFORT

Addendums Acknowledged (if applicable) -

Addendum #1 YES ____ NO ____ N/A ____

Addendum #2 YES ____ NO ____ N/A ____

Addendum #3 YES ____ NO ____ N/A ____

Addendum #4 YES ____ NO ____ N/A ____

Others _____

NOTE: Failure to acknowledge ALL addendums could result in disqualification of the submission.

In submitting a bid in response to this RFP, the authorized signatory below acknowledges having read and understood the entire solicitation and agrees to accept the Terms and Conditions set forth in this RFP.

The signatory below represents that he/she has the authority to bind the entity named below to the response submitted and any contract awarded as a result of this solicitation.

COMPANY: _____

ADDRESS: _____

TELEPHONE: _____ WEBSITE: _____

EMAIL: info@pennstate.edu

NAME: _____

TITLE:

SIGNATURE: _____

Note: Unsigned responses may be disqualified. E-signatures are acceptable.

ATTACHMENT A TERMS AND CONDITIONS

NOTE: COG will not negotiate Terms and Conditions at the time of contract award.

Exceptions MUST be submitted at time of proposal.

Failure to do so may disqualify the proposer now or at a later time.

This document sets out provisions generally applicable to Metropolitan Washington Council of Governments (“COG”) contracts. The provisions herein do not constitute a complete agreement, and must be appended to a document, executed by all parties, which identifies the specific work to be performed, compensation, term, incorporated attachments, and special conditions, if any.

Proposers are categorized as Subrecipients in this section

A. Energy Conservation - 42 U.S.C. § 6321 et seq.

The SUBRECIPIENT 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.

B. Clean Water Requirements - 33 U.S.C. § 1251 et seq.

1. The SUBRECIPIENT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended. The SUBRECIPIENT agrees to report each violation to COG and understands and agrees that COG will, in turn, report each violation, as required, to assure notification to appropriate federal agencies including the appropriate EPA Regional Office.
2. The SUBRECIPIENT also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance.

C. Lobbying - 31 U.S.C. § 1352 et seq.

(Regarding each bid or offer exceeding \$100,000)

1. In signing the proposal form above the proposer certifies, to the best of his or her knowledge and belief, that:
2. 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation,

renewal, amendment, or modification of and federal contract, grant, loan, or cooperative agreement.

3. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). [Note: Language in paragraph (b) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995. (P.L. 104-65, to be codified at 2 U.S.C. § 1601 et seq.)]
4. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
5. 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 by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

D. Access to Records and Reports - 49 U.S.C. § 5325

1. The SUBRECIPIENT agrees to provide COG, and if applicable the state or federal funding agency, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the SUBRECIPIENT which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transactions.

2. The SUBRECIPIENT agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The SUBRECIPIENT agrees to maintain all books, records, accounts and reports required under this Contract for a period of 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 the SUBRECIPIENT agrees to maintain same until COG, the applicable state or federal funding agency, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

E. Funding Agency Changes

The SUBRECIPIENT shall at all times comply with all applicable state and federal agency regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the funding agreement between such agency and COG, as they may be amended or promulgated from time to time during the term of this Contract.

SUBRECIPIENT failure to comply shall constitute a material breach of this Contract.

F. Clean Air - 42 U.S.C. § 7401 et seq.

1. The Clean Air requirements apply to all contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year.
2. The SUBRECIPIENT 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 SUBRECIPIENT agrees to report each violation to COG and understands and agrees that COG will, in turn, report each violation as required to assure notification to the funding federal agency, if any, and the appropriate EPA regional office.
3. The SUBRECIPIENT also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance.

G. Recycled Products - 42 U.S.C. § 6962

1. The Recycled Products requirements apply to all contracts for items designated by the EPA, when COG or the SUBRECIPIENT procures \$10,000 or more of one of these items during the fiscal year or has

procured \$10,000 or more of such items in the previous fiscal year, using federal funds.

2. The SUBRECIPIENT agrees to comply with all requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. § 6962), including but not limited to regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247.

H. No Government Obligation to Third Parties

1. The SUBRECIPIENT acknowledges and agrees 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 of COG, the SUBRECIPIENT, or any other person (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
2. The SUBRECIPIENT agrees to include the above clause in each subcontract financed in whole or in part with federal assistance. It is further agreed that the clause shall not be modified, except to identify the SUBRECIPIENT that will be subject to its provisions.

I. Program Fraud and False or Fraudulent Statements and Related Acts - 31 U.S.C. § 3801 et seq.

1. The SUBRECIPIENT acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and all appropriate federal agency regulations apply to its actions pertaining to this PROJECT. Upon execution of the underlying contract, the SUBRECIPIENT 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 of the federally assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the SUBRECIPIENT further acknowledges that if it makes, or caused 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 SUBRECIPIENT or to the extent the Federal Government deems appropriate.
2. The SUBRECIPIENT 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, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(N)(1) on the SUBRECIPIENT, to the extent the Federal Government deems appropriate.

3. The SUBRECIPIENT agrees to include the above two clauses in each subcontract financed in whole or in part with federal assistance. It is further agreed that the clause shall not be modified, except to identify the SUBRECIPIENT who will be subject to the provisions.

J. Insurance Requirements

1. For its activities and operations, Contractor shall have already in place at the time of the submission and at all times thereafter and keep in effect all below required coverages.
2. Commercial General Liability Insurance in the amounts listed below. The insurance shall include coverage for personal injury and claims of discrimination and civil rights violations. All such insurance shall name COG as ADDITIONAL INSURED. A copy of the certificate of insurance shall be filed with COG before any services are rendered. Contractor shall maintain coverage in the amounts of \$1,000,000 per occurrence, \$2,000,000 general aggregate, and \$500,000 for property damage. Coverage shall be written on an occurrence form (Acord Form).
3. Contractor shall obtain, and at all times keep in effect, automobile insurance on all vehicles used in this Contract. Contractor's automobile insurance shall include coverage for damages resulting from bodily injury, including wrongful death, and property damage that may arise from the operations of any owned or hired automobiles used by Contractor in connection with the performance of this Contract. All such insurance shall name COG and/or its individual members, their employees, and agents as ADDITIONAL INSURED.
4. Contractor shall, provide COG with certification of Workers' Compensation Insurance, with employer's liability at least the minimum amount required by the governing jurisdiction's law, in effect for each year of this Contract.
5. Contractor shall obtain and maintain at all times during the prosecution of the work under this Agreement professional liability insurance. Limits of liability shall be \$1,000,000 per claim and \$2,000,000.00 aggregate.
6. Cyber Liability Insurance - The Contractor shall provide evidence satisfactory Cyber Liability Insurance, with limits not less than \$500,000 per occurrence or claim, \$1,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor under this grant and

shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. Limits may not be shared with other lines of coverage. A copy of the cyber liability policy must be submitted to COG.

7. All insurance policies shall have a minimum 30 days' notice of cancellation. Immediate written notice to COG, and members involved in the contract, shall be required in the event of cancellation or restriction by the insurance company of any insurance policy referred to in this section.
8. When insurance coverage is renewed, Contractor shall provide new certificates of insurance to all contracting agencies and COG prior to expiration of current policies.

K. Termination - 49 U.S.C. Part 18

Applicable to all contracts in excess of \$10,000

1. Termination for Convenience

COG, by written notice, may terminate this Contract, in whole or in part, at any time by written notice to the SUBRECIPIENT when it is in COG's best interest. If this Contract is terminated, COG shall be liable only for payment under the payment provisions of this Contract for services rendered before the effective date of termination.

2. Termination for Default [Breach or Cause]

If the SUBRECIPIENT fails to perform in the manner called for in this Contract, or if the SUBRECIPIENT fails to comply with any other provisions of the Contract, COG may terminate this Contract for default. Termination shall be effected by serving a notice of termination on the SUBRECIPIENT setting forth the manner in which the Contract is in default. The SUBRECIPIENT will only be paid the contract price for services performed in accordance with the manner of performance set forth in the Contract. If it is later determined by COG that the SUBRECIPIENT had an excusable reason for not performing, such as strike, fire, or flood, events which are beyond the control of the SUBRECIPIENT, COG, after setting up a new delivery of performance schedule, may allow the SUBRECIPIENT to continue work, or treat the termination as a termination for convenience.

3. COG in its sole discretion may, in the case of termination for breach or default, allow the SUBRECIPIENT ten (10) working 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 the SUBRECIPIENT fails to remedy to COG's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within the ten (10) working days after receipt by the SUBRECIPIENT of written notice from COG setting forth the nature of said breach or default, COG shall have the right to terminate the Contract without further obligation to the SUBRECIPIENT. Any such termination for default shall not in any way operate to preclude COG from also pursuing all available remedies against the SUBRECIPIENT and its sureties for said breach or default.

4. In the event COG elects to waive its remedies for any breach by the SUBRECIPIENT of any covenant, term or condition of this Contract, such waiver by COG shall not limit COG's remedies for any succeeding breach of that or any other term, covenant, or condition of this Contract.
- L. **Civil Rights Requirements** - 29 U.S.C. § 62, 42 U.S.C. § 2000, 42 U.S.C. § 602, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49 U.S.C. § 5332
- A. 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 all other provisions of federal law, the SUBRECIPIENT 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 SUBRECIPIENT agrees to comply with applicable federal implementing regulations. The clauses of Appendix A and E of the U.S. DOT Standard Title VI Assurances (USDOT 1050.2A) are incorporated herein by reference.

- B. **Equal Employment Opportunity.** The following equal employment opportunity requirements apply to the underlying contract:

1. Race, Color, Creed, National Origin, Sex

In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the SUBRECIPIENT 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 activities undertaken in the

course of this PROJECT. The SUBRECIPIENT 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 SUBRECIPIENT agrees to comply with apprenticeship. In addition, the SUBRECIPIENT agrees to comply with any implementing requirements the funding federal agency may issue.

2. Age

In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and other applicable law, the SUBRECIPIENT agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the SUBRECIPIENT agrees to comply with any implementing requirements the funding federal agency may issue.

3. Disabilities

In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the SUBRECIPIENT 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 SUBRECIPIENT agrees to comply with any implementing requirements the funding federal agency may issue.

C. The SUBRECIPIENT also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance, modified only if necessary, to identify the affected parties.

M. **Breaches and Dispute Resolution.**

1. Disputes

Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the COG Executive Director or his/her designee. This decision shall be final and conclusive, unless within ten (10) working days from the date of receipt of its copy, the SUBRECIPIENT mails or otherwise furnishes a written appeal to the Executive Director or his/her designee. In connection with any such appeal, the SUBRECIPIENT shall be afforded an opportunity to be heard and to offer evidence in support of its position.

The decision of the Executive Director or his/her designee shall be binding upon the SUBRECIPIENT, and the SUBRECIPIENT shall abide by the decision.

2. Performance During Dispute

Unless otherwise directed by COG, the SUBRECIPIENT shall continue performance under this Contract while matters in dispute are being resolved.

3. Claim 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 its employees, agents or others for acts it 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.

4. Remedies

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between COG and the SUBRECIPIENT arising out of or relating to this agreement or its breach may be submitted by the parties for arbitration if the parties mutually agree, otherwise, such claims, counterclaims, disputes and other matters shall be decided by a court of competent jurisdiction within the District of Columbia.

5. Rights and Remedies

The duties and obligations imposed by the Contract and the rights and remedies available there under 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 COG or the SUBRECIPIENT shall constitute a waiver or any right or duty afforded to them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach there under, except as may be specifically agreed in writing.

N. Patent, Rights in Data and Proprietary Information.

1. Rights in Data

The following requirements apply to each contract involving experimental, developmental or research work:

- a. The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text

in specifications or related performance or design-type documents; CDs or flash drives (thumbdrives) containing data; and any other information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

- b. The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:
 - i. In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, 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 in subsections M.2.a and M.2.b of this clause below. As used in the previous sentence, "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.
 - (1) Any subject data developed under that contract, whether or not a copyright has been obtained; and
 - (2) Any rights of copyright purchased by the Purchaser or the SUBRECIPIENT using federal assistance.

2. Patent Rights

The following requirements apply to each contract involving experimental, developmental, or research work:

- a. General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and the SUBRECIPIENT agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until the federal funding agency is ultimately notified.

- b. Unless the Federal Government later makes a contrary determination in writing, irrespective of the SUBRECIPIENT status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the SUBRECIPIENT agree to take the necessary actions to provide, through the federal funding agency, those rights in that invention due the Federal Government as described in the U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
- c. The SUBRECIPIENT also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with federal assistance.

3. Proprietary Information

- a. All materials provided in solicitation responses and contracts that are proprietary should be marked as such.
- b. COG accepts no responsibility for the release of any information submitted that is not marked as proprietary or confidential.

O. Interest of Members of Congress

No member of, or delegates to, the Congress of the United States shall be admitted to a share or part of this Contract or to any benefit arising there from.

P. Interest of Employees of COG

No employee of COG who exercises any functions or responsibilities in review or approval of the undertaking or carrying out the PROJECT during his or her tenure or one (1) year thereafter, shall have any personal interest, direct or indirect, apart from his or her official duties, in this Contract or the proceeds thereof.

Q. Interest of the SUBRECIPIENT

The SUBRECIPIENT covenants that it has presently no financial interest, shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The SUBRECIPIENT further covenants that, in the performance of this Contract, no person having any such interest shall be employed.

R. Payment

Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after COG's receipt of a proper invoice from the Contractor and shall be made electronically.

1. **Electronic Payment** means the payment of money to a vendor by electronic means, including by means of a Purchase Card (P-card) or Automated Clearing House (ACH) funds transfer method. The vendor may choose the form of payment that best suits them.
2. COG has implemented a P-Card Program utilizing MASTERCARD networks. Purchases from this contract can be made utilizing COG's P-Card.
3. Contractors will receive payment from the P-Card in the same manner as other credit card purchases. The payments typically are transferred within 48 hours.
4. COG can also accept ACH transactions. This method will be acceptable as a form of payment to our vendors. Please keep in mind the turn-around time on ACH transactions can be as long as 30 days.

NOTE: Vendor must accept either P-card or ACH payments. COG will not issue checks for payments under this contract.

S. Allowable Costs

Only those costs which are consistent with Title 2 Part 200 of the Code of Federal Regulations shall be reimbursed under this Contract.

T. Covenant Against Contingent Fees

The SUBRECIPIENT warrants that it has not employed any person to solicit or secure this Contract upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of warranty shall give the Contracts Officer the right to terminate this Contract or, in his discretion, to deduct from the Contract price or consideration the amount of such commission, percentage, brokerage or contingent fees. This warranty shall not apply to commissions payable by the SUBRECIPIENT upon contracts or sales secured or made through a bona fide established commercial or selling agency maintained by the SUBRECIPIENT for the purpose of securing business.

U. Indemnification

The SUBRECIPIENT, acting as an independent SUBRECIPIENT, shall hold COG harmless from and shall be solely responsible, where found liable, for the payment of any and all claims for loss, personal injury, death, property damage, or otherwise, arising out of any act of omission or negligence of its employees or agents in connection with the performance of this work.

V. Severability

It is understood and agreed by the parties that if any of these provisions shall contravene, or be invalid under, the laws of the particular state, county or jurisdiction where used, such contravention or invalidity shall not invalidate the whole agreement, but the Contract shall be construed as of not containing the particular provision or provisions held to be invalid in the said particular state, county or jurisdiction and the rights and obligations of the parties shall be construed and enforced accordingly.

W. Assignments

This Contract shall not be assigned, sublet or transferred in whole or in part by the SUBRECIPIENT, except with the previous written consent of the COG Contracting Officer or his designee.

X. Entire Agreement

This Contract sets forth the entire understanding of the parties and supersedes all previous agreements, whether oral or in writing, relating to the subject matter hereof. This Contract may only be altered, amended or modified in accordance with Changes Clause of this Contract.

Y. Confidential or Personal Data

COG respects the privacy or business interests involved in confidential or personal data. It is COG's policy to obtain confidential or personal data or store or allow storage of such data only -

1. When necessary to fulfill COG's information-gathering and data collection responsibilities
2. In conjunction with COG projects. COG intends to minimize risk of disclosure of such confidential or personal data.
3. Whenever feasible and the requirements of a project allow, the names of survey participants or users of a website or other data collection method shall not be accepted, recorded, stored or retained.
4. When COG engages in a project, which involves the collection or storage of confidential or personal information by or through use of surveys, websites or by other data collection, the following conditions shall be met:
 - a. The survey, website or other collection method shall contain a set of conditions for use and a disclaimer of any COG liability for use, in language approved by COG in writing.

- b. The party(ies) working with COG shall demonstrate adherence to a federal or applicable state standard for protecting confidential or personal information.
- c. The confidential or personal information collected or stored by or through the survey, website or other data collection shall be kept confidential. All necessary steps shall be taken to protect the privacy of the users of the website or other data collection. Any confidential or personal information provided by users of the website or other data collection, including but not limited to their names and addresses, shall be protected.
- d. COG shall retain control over and ownership of all surveys, web pages, control files and scripts, database schema, and database contents, in addition to all content which is published on or stored by the website or other data collection, unless COG specifically agrees in writing otherwise.
- e. No release of any announcements intended for public dissemination concerning the collection or storage of such information by or through the survey, website or other data collection shall occur until COG has given prior written authorization, unless COG specifically agrees in writing otherwise.
- f. In the event that information collected or stored by or through the survey, website or other data collection shall be stolen or handled incorrectly, the party(ies) working with COG on the PROJECT shall be responsible for any required notification to persons who have entered personal information in that system and all costs related thereto.
- g. The PROJECT documents shall provide that other parties working with COG on the survey, website or other data collection or storage shall indemnify COG with at least the following commitment:

The [SUBRECIPIENT or other party] shall indemnify and hold COG harmless from and shall be solely responsible, for the payment of any and all claims for loss, personal injury, death, property damage, infringement or misappropriation of any third party's intellectual property rights, violation of privacy, confidentiality or otherwise, arising out of any act of omission or negligence of its employees or agents in connection with the performance of the work under this [agreement or memorandum of understanding].

- h. At the end of the project or contract, any personal or confidential information shall be given to COG or destroyed, and a certification

of destruction provided to COG by the SUBRECIPIENT or other party.

Z. COG's Policies and Procedures

When federal law, or any grant conditions, certifications or assurances require COG to utilize competitive procurement procedures for selection of a SUBRECIPIENT, COG's policies and procedures shall govern every aspect of the SUBRECIPIENT selection process, e.g., the solicitation, evaluation, award, and post-award process (including, without limitation, any protest of an award, and the terms and conditions under which a contract may be approved, executed and administered). Any SUBRECIPIENT and potential SUBRECIPIENT will be provided with a copy of such policies and procedures, on request.

AA. COG's Information Technology Policy

Contractors that must access COG's Information Technology systems or require a COG login account to perform their duties must adhere to COG's Information Technology Policies and Procedures. Such contractors will receive a copy of the policies and procedures prior to receiving access to COG's IT systems.

BB. COG's Facilities, Policies, and Procedures

Contractors that must use any of COG's facilities or equipment must adhere to COG's Facilities, Policies and Procedures. Contractors that utilize any AV or IT equipment through the use of COG's facilities shall also comply with COG's IT Policy. Such contractors will receive a copy of all relevant procedures prior to receiving access to COG's IT systems.

CC. Additional Requirements

In addition to the terms and conditions expressly referenced in this Contract, the SUBRECIPIENT acknowledges and agrees that the terms and conditions of any federal or state grant that provides funding for this Contract, in whole or in part, shall apply to and shall govern the parties' rights and obligations under this Contract and shall be deemed additional terms, conditions and requirements of this Contract.

DD. DBE Assurance

The SUBRECIPIENT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The SUBRECIPIENT shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of USDOT-assisted contracts. Failure by the SUBRECIPIENT 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 COG deems appropriate.

EE. Audits

Per the Enhanced Mobility Circular, COG as the Designated Recipient for Enhanced Mobility funds will collect A-133 audit reports from the SUBRECIPIENT receiving more than \$750,000 in federal funds. At a minimum, the SUBRECIPIENT is required to bring to COGTPB's attention any audit findings relevant to its use of FTA funds. The SUBRECIPIENT is not subject to A-133 audit requirements and may require additional monitoring, in a format elected by COG, to ensure compliance.

FF. FFATA Reporting

1. The Federal Funding Accountability and Transparency Act ("FFATA") requires prime recipients of federal grants and contracts to report sub-award and executive compensation data. COG is the prime recipient of federal awards for the purposes of this policy and is responsible for reporting sub-award data.
2. COG and first-tier sub-awardees are required to maintain current registration in the System for Awards Management ("SAM") as well as obtain a DUNS number. COG is responsible for filing the report in the FSRS system, not sub-awardees. However, sub-award recipients must provide the following information to COG before they will be eligible to receive the sub-award:
 - a. The entity's information
 - b. Description and/or title of the sub-award (including NAICS code or CFDA number)
 - c. Date and amount of award
 - d. Location of the entity receiving the award and the primary location of performance under the award, including the city, state, congressional district, and country
 - e. Active and current SAM unique identifier
 - f. DUNS number
 - g. Names and total compensation of the five (5) highest paid officers/executives of the sub-recipient if all three criteria are met:
 - a) Federal awards make up 80% or more of the SUBRECIPIENT's annual gross revenues
 - b) The SUBRECIPIENT's annual gross revenue from federal awards is \$25 million or more

- c) The SUBRECIPIENT's officer names are not publicly available and the public does not have access to data on executive compensation of the entity through the Securities and Exchange Commission (SEC) as described in further detail in OMB Guidance on Sub-award and Executive Compensation Reporting (August 27, 2010)

(COG, as the prime recipient of the federal award, must also report its own executive compensation data by the end of the month following the award if the same criterion noted above is met.)

GG. Priority of Requirements

In the event of a conflict between or among any of the terms, conditions and requirements applicable to this Contract, the conflict shall be resolved by giving weight in accordance with the following priorities, in the order as stated below:

1. Terms and conditions of any grant that provides funding for this Contract, in whole or in part;
2. Terms and conditions set forth or referenced within this Contract;
3. Terms and conditions and representations set forth or referenced within Attachments A and F to this Contract;
4. Terms, conditions, specifications, and requirements set forth within any solicitation (e.g., RFP or IFB) pursuant to which this Contract was awarded;
5. Offers, representations, promises, terms and conditions set forth with the bid or proposal submitted in response to any solicitation (e.g., RFP or IFB) pursuant to which this Contract was awarded.

ATTACHMENT B PROPOSER CERTIFICATION

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

The prospective vendor certifies to the best of its knowledge and belief that it and its principals:

- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any department or agency of the District of Columbia, State of Maryland or the Commonwealth of Virginia or any of the 24 jurisdictions comprising the membership of the Metropolitan Washington Council of Governments (COG);
- Have not within a three year period preceding this date been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated above of this certification; and
- Have not within a three-year period preceding this date had one or more public transactions (Federal, State or local) terminated for cause or default.

Vendor understands that a false statement on this certification may be grounds for rejection of any submitted proposal or quotation or termination of any award. In addition, under 18 U.S.C. § 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both if federal funds are being used to support the procurement.

Typed Name of Vendor

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

ATTACHMENT C PROPOSER REFERENCES

CONTRACT REFERENCES

OFFEROR: _____

PROVIDE A MINIMUM OF THREE (3) REFERENCES FROM CUSTOMERS THAT ARE CAPABLE OF DISCUSSING YOUR COMPANY'S ABILITY TO PERFORM CONTRACTS OF COMPARABLE SIZE AND SCOPE. It is imperative that accurate contact names and phone numbers be given for the projects listed. All references should include a contact person who can comment on the company's ability to perform the services required under this contract. The company should ensure that telephone numbers and contact names given are up-to-date and accurate.

Reference Number 1

1. Name of Client Organization: _____
2. Name and Title of Point of Contact (POC) for Client Organization: _____

3. Phone Number of POC: _____
4. Approximate Value of Contract: _____
5. Duration of Contract: _____
6. Description of Services Provided: _____

Reference Number 2

1. Name of Client Organization: _____
2. Name and Title of Point of Contact (POC) for Client Organization: _____

3. Phone Number of POC: _____
4. Approximate Value of Contract: _____
5. Duration of Contract: _____
6. Description of Services Provided: _____

Reference Number 3

1. Name of Client Organization: _____

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
RFP 23-003 ALTERNATIVE WATER SOURCES - LEGISLATIVE EFFORT

2. Name and Title of Point of Contact (POC) for Client Organization: _____

3. Phone Number of POC: _____
4. Approximate Value of Contract: _____
5. Duration of Contract: _____
6. Description of Services Provided: _____

Reference Number 4

1. Name of Client Organization: _____
2. Name and Title of Point of Contact (POC) for Client Organization: _____

3. Phone Number of POC: _____
4. Approximate Value of Contract: _____
5. Duration of Contract: _____
6. Description of Services Provided: _____

Reference Number 5

1. Name of Client Organization: _____
2. Name and Title of Point of Contact (POC) for Client Organization: _____

3. Phone Number of POC: _____
4. Approximate Value of Contract: _____
5. Duration of Contract: _____
6. Description of Services Provided: _____

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
RFP 23-003 ALTERNATIVE WATER SOURCES - LEGISLATIVE EFFORT

ATTACHMENT D DBE FORM

DBE FORM
(Writeable Form Provided as a Separate Attachment)

DBE Plan Submission		
<p>A. Disadvantaged Business Enterprise ("DBE") participation should be an integral component of the consultant selection process for this solicitation. COG's DBE Policy may be viewed on its website https://www.mwcog.org/purchasing-and-bids/dbe-policy/.</p> <p>B. Responding firms shall submit with their proposals a DBE Participation Plan to meet this goal. The plan shall identify any DBE that shall be participating in the project.</p> <p>C. The plan shall include the name and address of each firm, a copy of the firm's current DBE Certification (as of the date of submission) from any federal, state, or local government agency that certifies the DBE firm. Failure to provide the proof of DBE certification for prime or subcontracting firms will result in disqualification of DBE points.</p> <p>D. Only current DBE certifications will be accepted by COG for this purpose. Pending certifications are not eligible for points in this solicitation.</p> <p>E. No certifications except DBE are eligible for points. Do not submit MBE, SMB, SWaM or other certification types. They will be rejected and no points will be awarded. No exceptions.</p>		
PROPOSER	Name: _____	
Total Proposed Budget	Value: \$ _____	
DBE Plan	Yes _____	No _____
Check if Prime Contractor is a DBE _____. Certification Form Must Be Attached to this form.	Certification # _____	Expiration Date: _____
DBE Certification	State: _____	Certification Type: DBE (must be DBE)
	Certifying Agency: _____	
DBE SUBCONTRACTOR 1	Name: _____	
Street Address	Tax ID #: _____	
City, State, Zip	Website: _____	
POINT OF CONTACT	Name: _____	Title: _____
	Email: _____	Telephone: _____
Subcontract Value	Cost \$ _____	Percentage of total _____ %
DBE Performance Period	Start ____/____/____	End ____/____/____
DBE Certification	State: _____	Certification Type: DBE (must be DBE)
Certification Form Must Be Attached to this form	Certification # _____	Expiration Date: _____
BREAKDOWN BY ETHNICITY & GENDER	MALE	FEMALE
Black American	_____	_____
Hispanic American	_____	_____
Native American	_____	_____
Asian-Pacific American	_____	_____
Subcontinent Asian American	_____	_____
Non-Minority	_____	_____
<i>See page 2 for additional DBE subcontractors</i>		

ATTACHMENT E: RIDER FORM

RIDER FORM SAMPLE

COG Cooperative Rider Clause

The COG Cooperative Purchasing Program works to aggregate the public entity and non-profit purchasing volumes in the National-Capital region of Maryland, Virginia and Washington, D.C.

I. Format

COG serves as the Lead Agency of this procurement and has included this Cooperative Rider Clause indicating its willingness to allow other public entities to participate in this procurement ("Participating Agency") pursuant to the following Terms and Conditions:

II. Terms

- A. A Participating Agency, through their use of this Cooperative Rider Clause, agree to the terms and conditions of the resulting contract to the extent that they can be reasonably applied to the Participating Agency.
- B. A Participating Agency may also negotiate additional terms and conditions specific to their local requirements upon mutual agreement between the parties.

III. Other Conditions - Contract and Reporting

- A. The resulting contract shall be governed by and "construed" in accordance with the laws of the State/jurisdiction in which the Participating Agency is officially located.
- B. Contract obligations rest solely with the Participating Agency only.
- C. Contractor must provide semi-annual contract usage reporting information to COG, including but not limited to quantity, unit pricing and total volume of sales by entity on demand and without further approval of Participating Agency;

Semi-annual reporting Due Dates beginning from Contract execution:

- November 30, covering May 1 – October 31
- May 31, covering November 1 – April 30

- D. Contractor is required to report any Participating Agency that is added to the contract and a **COG Rider Clause Approval Form** must be filled out by the Participating Agency and approved by COG (see form below).
- E. Significant changes in total contract value may result in further negotiations of contract pricing with the Lead Agency and any Participating Agency.
- F. Although Participating Members (see next page) are the priority of this rider clause, organizations not on this list are permitted to use this clause by mutual agreement and approval by COG.

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
RFP 23-003 ALTERNATIVE WATER SOURCES - LEGISLATIVE EFFORT

II. Participating Members

COG Member Governments

- **District of Columbia**

Maryland

- Town of Bladensburg
- City of Bowie
- City of College Park
- Charles County
- City of Frederick
- Frederick County
- City of Gaithersburg
- City of Greenbelt
- City of Hyattsville
- City of Laurel
- Montgomery County
- Prince George's County
- City of Rockville
- City of Takoma Park

Virginia

- City of Alexandria
- Arlington County
- City of Fairfax
- Fairfax County
- City of Falls Church
- Loudoun County
- City of Manassas
- City of Manassas Park
- Prince William County

Other Local Governments

- Town of Herndon
- Spotsylvania County
- Stafford County
- Town of Vienna

Public Authorities/Agencies

- Alexandria Renew Enterprises
- District of Columbia Water and Sewer Authority
- Metropolitan Washington Airports Authority
- Montgomery County Housing Opportunities Commission
- Potomac & Rappahannock Transportation Commission/ Omni Ride
- Prince William County Service Authority
- Upper Occoquan Service Authority

- Washington Metropolitan Area Transit Authority
- Washington Suburban Sanitary Commission

School Systems

- Alexandria Public Schools
- Arlington County Public Schools
- Charles County Public Schools
- District of Columbia Public Schools
- Frederick County Public Schools
- Loudoun County Public Schools
- City of Manassas Public Schools
- Montgomery College
- Montgomery County Public Schools
- Prince George's County Public Schools
- Prince William County Public Schools
- Spotsylvania County Schools
- Winchester Public Schools

State Agencies

- Maryland-National Capital Park and Planning Commission

BALTIMORE METROPOLITAN COUNCIL

- City of Annapolis
- Anne Arundel County
- Anne Arundel County Public Schools
- Anne Arundel Community College
- City of Baltimore
- Baltimore City Public Schools
- Baltimore County
- Baltimore County Public Schools
- Community College of Baltimore County
- Carroll County
- Harford County
- Harford County Public Schools
- Harford Community College
- Howard County
- Howard County Public Schools System
- Howard Community College
- Queen Anne's County
- Queen Anne's County Public Schools

**COG Rider Clause
Approval Form**
Sample only – Do Not Fill Out

This form must be executed for any Participating Agency, both within and outside of the Metropolitan Washington Council of Governments (COG) region, to use the COG Cooperative Rider Clause to ride solicitations and contracts.

Participating Agency Name _____

Contact Person _____

Phone _____ Email Address _____

Solicitation/Contract Information:

Name Solicitation/Contract _____

Lead Agency/Contract Holder _____

Contact Person _____

Solicitation/Contract Number _____ Other Reference _____

Vendor Information:

Contractor Name _____

Address _____

City/State/Zip _____

Contact Person _____

Phone _____ Email Address _____

See questions on next page.

Sample only – Do Not Fill Out

Questions –

YES NO

1. Is the Contract active and currently in force? _____
2. Is the Participating Agency's specifications/scope of work the same or very similar to that in the Contract? _____
3. Is riding this Contract within the rules and regulations of the Participating Agency and approved by the Participating Agency's Purchasing Department? _____

Participating Entity

Name _____

Title _____

Signature _____

**Metropolitan Washington
Council of Governments**

Name _____

Title _____

Signature _____

ATTACHMENT F: PERMANENT CERTIFICATION REGARDING LOBBYING

Offerors shall complete, sign and submit this Attachment with their proposal.

Applicable to Grants, Sub-grants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by Section 1352, Title 31, U. S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. 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.

The undersigned certifies, to the best of his or her knowledge and belief, that:

- 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, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a 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 for 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 this Federal grant 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 covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all sub-recipients shall certify and disclose accordingly.

Signature: _____

Company's Authorized Representative

Title

Date

DISCLOSURE OF LOBBYING ACTIVITIES

Complete This Form to Disclose Lobbying Activities Pursuant To 31 U.S.C. 1352

Type of Federal Actions:	Status of Federal Actions:	Report Type:
<input type="checkbox"/> Contract <input type="checkbox"/> Grant <input type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Loan <input type="checkbox"/> Loan Guarantee <input type="checkbox"/> Loan Insurance	<input type="checkbox"/> Offer/Offer/ Application <input type="checkbox"/> Initial Award <input type="checkbox"/> Post-Award	<input type="checkbox"/> Initial Filing <input type="checkbox"/> Material Change <input type="checkbox"/> Post-Award
For Material Change Only:		
Year: _____		Quarter: _____
Date of Last Report: _____		
4. Name and address of Reporting Entity: Prime _____ Sub-awardee _____ Tier _____, if known: Congressional District, if known: _____		
5. If Reporting Entity in Number 4 is Sub-awardee, Enter Name and Address of Prime: Congressional District, if known: _____		
6. Federal Department/Agency:		
7. Federal Program Name/Description: _____		CFDA Number, if applicable: _____
8. Federal Action Number, if known: _____		
9. Award Amount, if known: \$ _____		
Attach Continuation Sheet(s) SF-LLL-A, If Necessary		
11. Amount of Payment (check all that apply) \$ _____ <input type="checkbox"/> Actual <input type="checkbox"/> Planned		
12. Form of Payment (check all that apply) <input type="checkbox"/> a. Cash <input type="checkbox"/> b. in-kind, Specify: <input type="checkbox"/> Nature _____ <input type="checkbox"/> Value _____		
13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____		

14. Brief description of services performed or to be performed and date(s) of service, including officer(s), employee(s), or member(s) contacted for payment indicated in item:

Attach continuation sheet (s) SF-LLL, if necessary

15. Continuation Sheet(s) SF-LLL-A attached Yes No

16. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature:

Print Name:

Title:

Telephone No:

Date:

**INSTRUCTIONS FOR COMPLETION OF SF-LLL
DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to Title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for 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 a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the 1st tier. Sub-awards include but are not limited to sub-contracts, sub-grants, and contract awards under grants.
5. If the organization filing the report in Items 4 checks "Sub-awardee", then enter the full name, address, city, state, and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in Item 1 (e.g., Request for Proposal (RFP) number; Request for Proposal (RFP) number; grant announcement number; the contract, grant, or loan award number; the application proposal control number assigned by the Federal agency). In Include prefixes, e.g., "RFP-DE-90-001".
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in Items 4 or 5.
10.
 - a. Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered Federal action.
 - b. Enter the full names of the individual(s) performing services and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with
15. Check if a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his or her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503