



Legal Counsel Services RFP

Released: January 23, 2026

Proposals Due: February 23, 2026

REQUEST FOR PROPOSALS 2026-002

Legal Counsel Services RFP

Issue Date:	January 23, 2026
Vendor Question Deadline:	January 30, 2026, by 5:00 PM EST
Response to Questions:	February 4, 2026, by 5:00 PM EST
Proposals Due:	February 23, 2026, by 5:00 PM EST
Contract Award Announcement:	March 20, 2026

Procurement Contact:

Rebecca Donnelly-Lasecki, Procurement and Contracts Manager
Phone: (313)759-8684
E-Mail: rdlasecki@rtamichigan.org

DESCRIPTION

The Regional Transit Authority of Southeast Michigan (RTA) invites proposals from qualified legal firms to provide legal counsel services that support the agency's operations, governance, compliance, and contractual obligations. The selected firm will serve as general counsel, offering expert legal advice and representation on a broad range of matters related to public transit services.

SUBMISSION INSTRUCTIONS

- Proposals must be submitted via BidNet Direct by the deadline indicated above.
- Price-related information must be submitted separately from the technical proposal.
- Questions must be submitted in writing to Rebecca Donnelly-Lasecki via email (rdlasecki@rtamichigan.org) by the specified deadline.
- Late and/or incomplete submissions will not be considered.

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1. Introduction

The Regional Transit Authority of Southeast Michigan (RTA) is a public agency with the mission to create new and better ways to move and connect people. The RTA partners with transit providers, communities, companies, and citizens to create a vision for public transit – what it can be, what it can do, what we can achieve with it – and bring that vision to life. By exploring new strategies for improving transit coverage and service, securing and overseeing funding, and increasing accessibility to transit offerings, the RTA plays a crucial role in unleashing our region's boundless potential.

2. Background

The Regional Transit Authority of Southeast Michigan (RTA) plans, funds, coordinates, and accelerates regional transit services, projects, and programs in Southeast Michigan, comprising all of Macomb, Oakland, Washtenaw, and Wayne counties, including the City of Detroit. Within these roles, RTA is responsible for planning regional transit, developing and implementing new services, allocating federal and State funding to transit service operators, and securing new regional funding sources for public transit.

In addition, in 2024, RTA took ownership of the QLINE, which operates a fleet of streetcars on 3.3 miles of Woodward Avenue between New Center and Downtown in Detroit, providing a convenient transit option since 2017. This project will support RTA transit services as well as our provider agencies' services, at the same access and performance level.

3. Objectives

This procurement aims to retain legal services from experienced and responsive legal counsel to support the agency's mission and core responsibilities as defined in existing policies and enabling statute (MI P.A. 387, 2012, as amended). RTA desires legal counsel with demonstrated public sector transit law knowledge who can provide timely, practical, and strategic legal advice.

- The selected counsel will be a trusted partner in helping the agency fulfill its mission while ensuring legal integrity and compliance at all levels.
- The amount of time required will vary depending on the projects or services RTA provides. The Executive Director will authorize any and all work to be performed by the firm.

- Attendance at RTA Board of Directors meetings deemed necessary or as requested by the Executive Director or Board of Directors. Remote attendance is acceptable; all RTA Board of Directors meetings feature Zoom elements to facilitate remote attendance.

4. Contract Term and Type

The contract(s) will be for a three (3)-year term, with up to two (2), one (1)-year renewals. The procurement is expected to culminate in the award of one or more non-exclusive contracts.

Each matter must be separately invoiced monthly and include the following minimum information: date work performed, attorney or staff person performing the work, a brief description of the work performed, the time and dollar amount, and the RTA Purchase Order number.

The Contractor shall submit to the Executive Director a quarterly summary report of billed costs by task area, including General Corporate Counsel and Public Agency Law; Procurements and Contracting; Labor and Employment Law; and Real Estate Law. (see Section 5 Scope of Services below).

5. Scope of Services

The selected legal counsel will provide ongoing and as-needed legal services to support the full range of activities required by the RTA. Services will be provided under the Executive Director's or designee's general direction and may include coordination with agency staff, outside consultants, and partner jurisdictions.

The scope of services includes, but is not limited to, the following areas:

Task 1 – General Expectations

- This is a requirements contract; there is no guarantee of a specific level of legal services required, in either number of cases or dollar amount.
- All materials generated by this contract shall be the property of RTA, including without limitation, all case records pertaining to RTA matters, including all correspondence, discovery, pleadings, legal opinions, research, court filings, books, papers, electronic media, personal correspondence, and conversations involving RTA personnel, etc.

- One attorney who maintains an office within a 90-minute commute of Detroit must be designated as a liaison to the Authority, and who shall serve as “lead attorney” responsible for the general and day-to-day functioning of the business transacted.
- Only attorneys previously approved by RTA may perform work or appear on behalf of the Authority. Resumes of those attorneys who are anticipated to work on this account should be included with the proposal. The firm shall notify RTA if an attorney leaves the firm and advise who will be replacing them within ten (10) business days.
- The Contractor will be responsible for sanctions, fines, interest, and any other additional costs imposed by Court Rule or the court in which a matter is pending, which result from negligence, mismanagement, and/or delays that are not directly attributable to RTA's employees or agents.
- Costs typically described as overhead and other costs of doing business do not constitute allowable billing. Fees not allowed include local parking, mileage for local travel (within 50 miles of the four-county service area), and subscription fees. Non-local travel is payable for actual mileage not to exceed the federal government allowance rate. RTA will reimburse actual costs only if the proposal includes an itemized list of any reimbursable costs and billable fees associated with such items. Proposal must contain all associated fees and include consumables.
- RTA staff, RTA's independent auditors, as well as State and federal auditors, insurance carriers, and/or others may from time to time ask to audit any or all of the matters performed. The Contractor shall honor such requests, if made by the appropriate RTA staff person, and then, in full compliance with applicable law. Familiarity with the FOIA, Open Meetings Act, and/or other applicable regulations is required.

Task 2 – General Corporate Counsel and Public Agency Law

2.1 Administrative Law: Laws and regulations pertaining to the incorporation and operation of Transit Authorities within the State of Michigan.

- Compliance with federal, State, and local laws and regulations, including RTA-enabling legislation, the Open Meetings Act, and the Freedom of Information Act.

- Interpretation of governmental and agency rulings, particularly the Federal Transit Administration (FTA) and the Michigan Department of Transportation (MDOT), interagency agreements, and memoranda of understanding.

2.2 Defense: Defending the Authority officers and employees in all actions arising from delivering its transit services and the official duties of the Board and staff.

2.3 Environmental Law: Compliance with the National Environmental Policy Act reviews.

2.4 Intellectual Property and Licensing: Understanding of future mobility strategies and technologies used to support the delivery of forward-facing transportation alternatives.

2.5 General and Public Liability: Defense, management, and resolution of claims and litigation arising from alleged bodily injury, property damage, or personal injury involving the Agency's operations, facilities, vehicles, employees, contractors, or passengers.

2.6 Taxation: Interpretation, application, compliance, and planning associated with federal, state, and local tax laws affecting the Agency's operations, financing, capital projects, and contractual relationships.

2.7 Errors and Omissions: Management of claims, disputes, and risk management arising from alleged professional errors, omissions, negligence, or failures to perform by the Agency or its professional service providers.

2.8 Corporate and Commercial Law: Services related to the Agency's governance, organizational structure, commercial transactions, and contractual relationships

2.9 Federal and State Grants: Reviewing grant agreements.

Task 3 – Procurements and Contracting

3.1 Federal Compliance: Advise on procurement processes to ensure compliance with FTA Circular 4220.1G and the Uniform Guidance (2 CFR 200).

3.2 Contract Negotiations: Includes negotiation, interpretation, and dispute resolution services related to professional services and construction contracts; intergovernmental agreements; joint development arrangements; and matters involving employees, existing and new transit service providers, consultants, vendors, and contractors.

3.3 Contract Disputes: Support staff in interpreting and resolving contract disputes, protests, and claims, and advise on contractor compliance and risk mitigation strategies, including those for employees.

Task 4 – Labor and Employment Law

RTA's legal needs for labor and employment include a variety of topics related to local, State, and federal laws and regulations. Employment policies are administered by RTA management and third-party administrator (Professional Employer Organization). Some of the topics that legal opinions are typically used for by a transit authority include, but are not limited to, the following:

4.1 Collective Bargaining and Labor Arbitrations: Includes development of strategies, development of contractual language, resolution of disputes, and advice and counsel pertaining to legal issues; representation before hearing officers and negotiation of issues; advice on legal requirements and contracts pertaining to labor issues.

4.2 Civil Rights: Includes areas specific to the transit industry such as Drug-Free Workplace, FTA Drug and Alcohol Program, 13-C Requirements, Public Employee Relations Act, agency consolidation, Americans with Disabilities Act (ADA), Title VI, Disadvantaged Business Enterprise (DBE), and Equal Opportunity Employer (EOE).

4.3 Workers Compensation: Includes coordination with RTA leadership and third-party administrator to mitigate and defend contested claims.

4.4 Unemployment Compensation: Includes representation at various levels of appeals.

4.5 Discrimination: Includes the investigation of claims, correspondence with governmental agencies, representation in hearings, and resolution of disputes.

4.6 Sexual Harassment: Includes investigating claims, conducting investigative conferences and hearings, and resolving complaints.

4.7 Grievances: Includes the identification of issues and the development of responses.

4.8 Wages and Benefits: Includes advice and counsel on existing and future wages and benefits at RTA and identification and definition of issues.

Task 5 – Real Estate Law

5.1 Property Acquisition: Provide legal services related to property acquisition, right-of-way access, easements, leases, and licenses.

5.2 Purchase Agreements: Draft and review purchase agreements, title and deed documents, and related transactional materials.

5.3 Maintenance of Way: Assist in coordination with municipalities and private property owners for corridor access or project-related property needs.

6. Deliverables

- Meetings with RTA executive leadership as needed.
- Quarterly summary report of billed costs by task area (General Corporate Counsel and Public Agency Law; Procurements and Contracting; Labor and Employment Law; and Real Estate Law), submitted to the Executive Director. (see Section 5 Scope of Services above).

7. Evaluation Criteria

Following the receipt of all proposals, an RTA-designated evaluation committee will evaluate each proposal. All proposals which meet the requirements of this RFP will be evaluated. Any proposal determined to be non-responsive to the specifications or other requirements of the RFP, including instructions governing submission and format, will be disqualified unless the RTA determines, at its sole discretion, that the noncompliance is not substantial.

The RTA will evaluate proposals based on the criteria specified herein and may shortlist firms in the competitive range for further evaluation. The contract will be awarded to the proposer whose submission is determined to be the most advantageous to RTA, considering both technical factors and price. RTA reserves the right to reject any or all proposals, waive minor irregularities, and request clarifications as necessary.

The RTA reserves the right to request additional information to amplify, clarify, or support proposals. The RTA also reserves the right, at its discretion, to conduct interviews or site visits with any or all bidders regarding the proposals received in response to this RFP. Failure to participate in an oral presentation, site visit, or interview, if requested by the RTA, may be grounds for rejection of a bidder's proposal.

Prospective contractors will be notified by the RTA of the date and time for any pre-award presentation, site visit, or interview, if requested.

Decisions regarding bidder proposals are the final determination of the RTA.

To ensure a clear and fair review process, bidders must structure their proposals to address each evaluation criterion directly and submit all of the required forms.

Proposals will be evaluated based on the following criteria:

Criteria	Points	Description
Methodology and Technical Approach	30	Proposer will be evaluated on the methodology and technical approach to accomplishing all Tasks identified in the Scope of Services and must demonstrate a thorough understanding of the technical components of the requirements and an awareness of the scope of services to be provided.
Staffing and Team Members	30	Proposer shall identify the firm's ability to provide the strength and depth of available personnel with the knowledge, qualifications, skills, and abilities to meet the requirements of the Scope of Services.
Past Performance	20	Proposer will be evaluated past performance and previous experience performing services similar in size and scope to those described in the Scope of Services for each practice area for which the Proposer wants to be considered for an award.
Cost Proposal	10	Total proposed costs, price reasonableness, transparency, and value.

8. Proposal Requirements

All proposals must be submitted no later than February 23, 2026, at 5:00 pm EST. The RTA will not accept any proposals submitted after that deadline. The RTA will not extend the submission deadline due to technical issues or outages. The RTA recommends that bidders submit their proposals at least one business day prior to the deadline.

By submitting a proposal in response to this Request for Proposals, the proposer agrees to all of the terms and conditions of the [RTA's Master Services Agreement, as linked at the RTA website](#). A proposer's failure to comply with this Section is grounds for rejecting the proposal as non-responsive.

To be considered for this opportunity, all proposals must be submitted via [BidNet](#) by the deadline as stated above, and must include:

- Cover Letter
- Executive Summary
- Qualifications
 - State the qualifications and experience of the firm, principals, and attorneys, highlighting the primary practice areas described in the Scope of Services.
 - Include attorney qualifications, years of experience, and resume.
- Company Profile
- References including government and/or public transit agency clients, similar projects, and issues described in the Scope of Services.
- A separate cost proposal including budget and fee structure with a breakdown of fees by Task.
- All required forms completed and signed – see Appendix A.

9. Fees for Services

Fixed Fee for Services: Provide a fixed price for the first year of the contract:

Period	Monthly Fixed Fee	Annual Fixed Fee
Year 1 (Fixed)	\$	\$

Fees for all renewal periods will be adjusted annually by the percentage change in the CPI-U for the preceding 12 months, not to exceed five percent (5%) per year.

Optional Services – On-Call Legal Assignments: Detail any optional services or enhancements that could be provided outside of the scope of the fixed-fee services. Preference is for optional services to be set up using a monthly fixed-fee structure.

Description	Monthly Fixed Fee	Annual Fixed Fee
[Optional Service]	\$	\$
[Optional Service]	\$	\$
[Optional Service]	\$	\$

Optional services may be subject to annual CPI-U adjustments (not to exceed 5%) upon mutual agreement or remain at a fixed rate for the duration of the contract.

Hourly Rates for Key Personnel: List hourly rates for key personnel to be used if additional services beyond the fixed-fee or optional services are required:

Role/Title	Hourly Rate	Notes (optional)
[Specify Role]	\$	

Hourly rates are only applicable for unanticipated services outside of the fixed-fee or optional services scope. These rates are subject to CPI-U adjustments annually, not to exceed 5%

All proposed rate changes must be submitted to RTA in writing at least 30 days in advance and are subject to RTA review and written approval. The RTA reserves the right to audit and validate any requested increases and to reject any that are unsupported or inconsistent with contract terms.

10. Freedom of Information Act

All portions of a proposal submitted in response to this Request for Proposals and any resulting award are subject to disclosure as required under Michigan's Freedom of Information Act ("FOIA"), MCL 15.321, et. seq. However, some information may be exempt from disclosure. Under MCL 18.1261(13)(b), records containing "a trade secret as defined under section 2 of the Uniform Trade Secrets Act, 1998 PA 448, MCL 445.1902," are exempt from disclosure under FOIA. In addition, "financial or proprietary information" submitted with a proposal is exempt from disclosure under FOIA. A proposer's failure to comply with this Section is grounds for rejecting the proposal as non-responsive. Each proposal must include a completed "Confidential Treatment Form" ("CT Form"), found in Appendix A. Completion and submission of the CT Form is required regardless of whether the proposer seeks confidential treatment of information. Failure to submit a completed CT Form may be cause for disqualification from the procurement process.

11. Applicable Federal Clauses

The Regional Transit Authority of Southeast Michigan (RTA) receives federal funding from the Federal Transit Administration (FTA). As a condition of this funding, RTA must follow all applicable federal laws and regulations for third-party contracts. This section includes required federal clauses based on FTA Circular 4220.1G, 2 CFR Part 200, and the

RTA Procurement Policy. These clauses must be included in any contract resulting from this Request for Proposals (RFP). Proposers are responsible for understanding and complying with these requirements as part of doing business with RTA.

11.1 ACCESS TO RECORDS AND REPORTS

- a. **Record Retention.** The Contractor will retain, and will require its subcontractors of all tiers to retain complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third-party Contracts of any type, and supporting materials related to those records.
- b. **Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- c. **Access to Records.** The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information, including such records and information the contractor or its subcontractors may regard as confidential or proprietary, related to performance of this contract in accordance with 2 CFR § 200.337.
- d. **Access to the Sites of Performance.** The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

11.2 AMERICANS WITH DISABILITIES ACT (ADA)

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

EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

11.3 CHANGES TO FEDERAL REQUIREMENTS

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and Applicable changes to those federal requirements will apply to each Third-Party Agreement and parties thereto at any tier.

11.4 CIVIL RIGHTS LAWS AND REGULATIONS

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

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

- 1. Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to:
 - a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation), disability, or age, and prohibits discrimination in employment or business opportunity.
 - b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, Title VI of the Civil Rights Act of 1964," 49 CFR Part 21, and 49 U.S.C. § 5332, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
- 2. Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

3. **Nondiscrimination on the Basis of Age.** The “Age Discrimination Act of 1975,” as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.
4. **Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third-party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

11.5 CIVIL RIGHTS AND EQUAL OPPORTUNITY

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

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Equal Employment Opportunity.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., Title I of the Americans

with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.; and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements, without regard to their race, color, religion, national origin, or sex (including sexual orientation). In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621- 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
5. **Federal Law and Public Policy Requirements.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; and the Recipient will cooperate with Federal officials in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in the enforcement of Federal immigration law.

11.6 CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of

\$150,000:

Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.”

11.7 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.

- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one- half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. Withholding for unpaid wages The agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages as provided in the clause set forth in paragraph (2) of this section.
- (3) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this

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

11.8 DEBARMENT AND SUSPENSION

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

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

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

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

11.9 DISADVANTAGED BUSINESS ENTERPRISE (DBE)

It is the policy of the Agency and the United States Department of Transportation (“DOT”) that Disadvantaged Business Enterprises (“DBEs”), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Agency deems appropriate, which may include, but is not limited to:

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

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

11.10 ENERGY CONSERVATION

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

11.11 INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

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

Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

11.12 NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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

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

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

1. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
2. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
3. The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or

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

11.14 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

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

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further

agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

11.15 PROMPT PAYMENT

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

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

11.16 RESTRICTIONS ON LOBBYING

Conditions on use of funds.

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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

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

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

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

Certification and disclosure.

(a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:

- (1) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or
- (2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

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

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:

- (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

- (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
- (3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:

- (1) A subcontract exceeding \$100,000 at any tier under a Federal contract;
- (2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;
- (3) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or,
- (4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement, Shall file a certification, and a disclosure form, if required, to the next tier above.

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

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

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

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

11.17 TERMINATION

Termination for Convenience (General Provision)

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

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

Opportunity to Cure (General Provision)

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

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

Waiver of Remedies for any Breach

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

Termination for Convenience (Professional or Transit Service Contracts)

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

Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

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

Termination for Convenience or Default (Cost-Type Contracts)

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

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

If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up

a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

11.18 VIOLATION AND BREACH OF CONTRACT

Disputes:

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

Performance during Dispute:

Unless otherwise directed by the agency's authorized representative, the contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages:

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

Remedies:

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

Rights and Remedies:

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

12. REQUIRED FORMS

The following forms must be completed and submitted with Proposals. All forms are included in this solicitation package in Appendix A.

- A. Proposal Response Form
- B. Representations and Certifications
- C. Receipt of Addenda Form
- D. Deviation Form
- E. Agreement of Services Form
- F. Certificate Non-Collusion Affidavit
- G. Affirmative Action Plan Certification
- H. Debarment and Suspension Form
- I. Certification of Lobbying Form
- J. Confidential Treatment Form (Freedom of Information Act)

13. APPENDIX A - Forms