



METROPOLITAN  
TRANSPORTATION  
COMMISSION

Joseph P. Bort MetroCenter  
101 Eighth Street  
Oakland, CA 94607-4700  
TEL 510.817.5700  
TTY/TDD 510.817.5769  
FAX 510.817.5848  
EMAIL info@mtc.ca.gov  
WEB www.mtc.ca.gov

*Adrienne J. Tissier, Chair*  
San Mateo County

*Amy Rein Worth, Vice Chair*  
Cities of Contra Costa County

*Tom Azumbrado*  
U.S. Department of Housing  
and Urban Development

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Deputy Executive Director, Operations

November 21, 2012

## REQUEST FOR PROPOSAL (RFP)

**Solicitation Number #MTC-0001**

### **Bay Area Regional Prosperity Plan Regional Economic Development Strategy**

NOTICE IS HEREBY GIVEN that the Metropolitan Transportation Commission (MTC), invites your firm to submit a proposal for the Bay Area Regional Prosperity Plan Regional Economic Development Strategy.

The Request for Proposal (RFP) documents for this project are available for download on the MTC website at <http://procurements.mtc.ca.gov/>. Proposers are responsible for checking the website for any Addenda that may be issued relative to this RFP. Responses should be submitted in accordance with the instructions set forth in the RFP.

Interested firms must submit an original and four (4) copies, as well as one electronic PDF version, of their proposal by **4 p.m., Thursday, December 20, 2012**, in accordance with the instructions contained in the RFP. Other key RFP Dates are listed in Section V, Consultant Selection Timetable of the RFP.

Any contract entered into as a result of this RFP will be funded, in whole or in part, with federal funds from the Housing and Urban Development Department (HUD). Accordingly, the requirements included in Appendix F, Federal Requirements of Appendix D, MTC Standard Consultant Contract, and Appendices F through F-5 to this RFP shall apply to this procurement.

*MTC Point of Contact*  
Vikrant Sood, Project Manager  
Metropolitan Transportation Commission  
Joseph P. Bort MetroCenter  
101 Eighth Street  
Oakland, CA 94607-4700  
Tel: 510/ 817-5828; E-mail: vsood@mtc.ca.gov

Thank you for your interest.

Sincerely,



Steve Heminger  
Executive Director

SH: VS

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## MTC AND PROJECT DESCRIPTION

### *A. Description of MTC*

MTC was created by the state Legislature in 1970 (California Government Code § 66500 *et seq.*) to serve as the transportation planning, coordinating and financing agency for the nine-county San Francisco Bay Area.

### *B. Project Description*

The Bay Area Regional Prosperity Plan (Prosperity Plan) is a three-year regional initiative made possible by a \$5 million grant from the U.S. Department of Housing and Urban Development (HUD) to the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC). The grant is funded through HUD's Sustainable Communities Partnership Program which aims to create stronger, more sustainable communities by integrating housing and jobs planning, fostering local innovation and building a clean energy economy.

The Prosperity Plan will build on local and regional planning efforts such as FOCUS<sup>1</sup> and Plan Bay Area<sup>2</sup> to address the needs of people who face the greatest barriers to economic opportunity and are least likely among all population groups to participate in local and regional planning and decision-making processes.

The Prosperity Plan will include two key, interconnected areas of work:

- *Economic Opportunity Strategy* – will define a regional approach for expanding economic opportunities for low- and moderate-income workers in the region, and provide more than \$1 million in sub-grants for pilot projects by late 2013. This work area will include the development of a **Regional Economic Development Strategy**.
- *Housing the Workforce Initiative* – will provide tools and resources to improve housing affordability near transit for a range of income groups while stabilizing low income neighborhoods as new investments raise property values. This work area will also provide more than \$1 million in sub-grants for pilot projects.

Over the course of the project, MTC and ABAG will work with elected officials, local city and county staff, community-based and non-profit partners, business and labor groups, and local and regional economic and workforce development organizations that co-sponsored the grant application. More partners are expected to join over time.

MTC and ABAG have formed the following committees and working groups to implement the project:

- *Steering Committee* – is composed of MTC and ABAG members, community-based organizations, philanthropic organizations, and co-chairs of the three working groups. The Committee will provide oversight on the project, make recommendations on sub-grants and pilot projects, oversee an extensive community engagement process, and operate on a consensus-based model for decision-making.

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<sup>1</sup> FOCUS is a regional development and conservation strategy that promotes a more compact land use pattern for the Bay Area. For more information, see: [http://www.bayareavision.org/initiatives/PDFs/FOCUS\\_Brochure\\_12-08.pdf](http://www.bayareavision.org/initiatives/PDFs/FOCUS_Brochure_12-08.pdf)

<sup>2</sup> Plan Bay Area presents a coordinated land use, housing and transportation plan for the Bay Area. For more information, see: [http://www.onebayarea.org/plan\\_bay\\_area/](http://www.onebayarea.org/plan_bay_area/)

- *Economic Prosperity Working Group (EPWG)* – is composed of non-profit and community-based organizations, labor and business groups, and economic development and workforce training agencies. The EPWG will provide oversight on the economic prosperity work plan, help direct technical research and analysis, conduct additional outreach, and develop guidelines for pilot projects. The EPWG will have three rotating co-chairs each year.
- *Housing Working Group (HWG)* – is composed of non-profit and community-based organizations, housing authority staff, and tenant right groups. The HWG will provide oversight on the housing the workforce work plan, advise staff and consultants on technical research and analysis, conduct additional outreach, and develop guidelines for pilot projects. The HWG will have three rotating co-chairs each year.
- *Equity Collaborative (EC)* – is composed of non-profit and community-based organizations that represent under-represented and disadvantaged communities in the Bay Area. The EC will coordinate outreach, engagement and capacity-building activities that complement the work of the other two working groups. The EC will focus its work on engaging underrepresented communities and disadvantaged groups from across the region that are likely to benefit most from increased availability of affordable housing and quality jobs. The EC will have two rotating co-chairs each year.

For additional information, see “**San Francisco Bay Area Regional Prosperity Plan ABSTRACT**” at <http://procurements.mtc.ca.gov/>.

## **II. PROPOSER MINIMUM QUALIFICATIONS**

- Proposals must also demonstrate that the Consultant meets the following minimum qualifications to be eligible for consideration for this project: The project manager for the lead agency/organization has a minimum of five (5) years of work experience managing large teams at a regional or multi-jurisdictional level on similar projects; and
- The Consultant has demonstrated expertise and experience in all of the following four (4) areas through a minimum of two (2) projects in each category: one, qualitative and quantitative analysis for economic, workforce, housing and transportation needs; two, developing strategies that benefit low- and moderate-income households; three, community and stakeholder engagement with groups ranging from large and small businesses to underserved communities; and four, effective project management.

## **III. SCOPE OF WORK, PERIOD OF PERFORMANCE, AND BUDGET**

### ***A. Scope of Work***

The scope of work for the project is provided in *Appendix A, Scope of Work*. The firm or team selected to enter into a contract (“Consultant”) will be expected to perform all work and analysis necessary to complete the scope of work.

Given the broad scope of the project, Proposers are highly encouraged to form multi-disciplinary teams that represent a range of expertise that is drawn from the public, private and non-profit sectors from within the region.

**B. Period of Performance**

MTC expects the work to commence on or about February 1, 2013 and to be completed no later than April 30, 2014.

**C. Budget**

MTC has budgeted approximately four hundred fifty thousand dollars (\$450,000) for this effort.

**IV. PROPOSERS' CONFERENCE AND REQUESTS FOR CLARIFICATION OR EXCEPTIONS**

A Proposers' Conference will be held at 4 p.m. on Wednesday, November 28, 2012 at the Joseph P. Bort MetroCenter Building, 101 8<sup>th</sup> Street, Oakland, in Claremont Conference Room, Second Floor.

Any addenda will be posted on MTC's website. All Proposers are responsible for checking the website for any addenda to the bid documents.

Any requests for clarification of or exceptions to RFP requirements must be received by MTC no later than 4 p.m., Friday, November 30, 2012, to guarantee response or consideration. MTC reserves the right to reject any proposal that contains unauthorized conditions or exceptions.

**V. CONSULTANT SELECTION TIMETABLE**

4 p.m., Wednesday, November 28, 2012	Proposers' Conference, at 101 8 <sup>th</sup> Street, Oakland, CA 94607 Fishbowl Conference Room
4 p.m., Friday, November 30, 2012	Closing date/time for receipt of requests for modifications/exceptions
No later than 4:00 p.m. on the third day prior to the date proposals are due	Deadline for protesting RFP provisions
4 p.m., Thursday, December 20, 2012	<b>Closing date/time for receipt of proposals</b>
Between 9 am and 12 noon, Monday, January 7, 2013*	Interviews/Discussions (if held)
Friday, January, 11 2013*	MTC Steering Committee Approval
Wednesday, January 23, 2013	MTC Commission Approval

*\*Interview, award and approval dates are approximates and are subject to change before or after the closing date of the RFP.*

**VI. SUBMITTAL OF PROPOSALS**

1. Interested firms must submit an original and four (4) copies, as well as one electronic PDF version, of their proposal by **4 p.m., Thursday, December 20, 2012. Submission of an electronic copy of the proposal without hard copies will not satisfy the submission requirement.**

2. Proposals are to be addressed as follows:

**Bay Area Regional Prosperity Plan**  
**Regional Economic Development Strategy**  
Solicitation No. MTC-0001  
Attention: Vikrant Sood  
101 8<sup>th</sup> Street, 3<sup>rd</sup> Floor Receptionist  
Oakland, CA 94607

3. Proposer's name and return address must also appear on the envelope.
4. Proposals will be received only at the address shown above and **no later than the date and time indicated**. MTC is not responsible for deliveries delayed for any reason. Any proposals received after said date and time or at a place other than the stated address cannot be considered and will be returned to the Proposer unopened.
5. No proposals submitted solely by email and no faxed proposals will be considered.
6. All proposals, whether delivered by an employee of the Proposer, U.S. Postal Service, courier or package delivery service, must be received and time stamped at the stated address **prior to or no later than the time designated**. The timestamp located on the 3<sup>rd</sup> floor at the receptionist desk shall be considered the official timepiece for the purpose of establishing the time of receipt of proposals
7. Consultant agrees and acknowledges all RFP specifications, terms and conditions and indicates ability to perform by submission of a proposal.
8. A signed proposal submitted to MTC in response to this RFP shall constitute a binding offer from Consultant to contract with MTC according to the terms of the proposal for a period of ninety (90) days after the proposals are due to MTC.
9. A Proposal may be withdrawn at any time before the date and time when Proposals are due by submitting a written request for its withdrawal to the MTC Project Manager.
10. This RFP does not commit MTC to award a contract or to pay any costs incurred in the preparation of a proposal in response to this RFP.
11. Only one proposal will be accepted from any one person, partnership, corporation, or other entity; however, several alternatives may be included in one response.
12. MTC reserves the right to accept or reject all proposals submitted, waive minor irregularities, request additional information, or revisions to offers, and negotiate with any or all Proposers.
13. MTC reserves the right in its sole discretion not to enter into any contract as a result of this RFP.
14. If the selected Proposer fails to enter into a contract with MTC in a timely manner as determined by MTC, in accordance with the terms and conditions of this RFP, MTC reserves the right to reject the proposal and enter into a contract with the next highest scoring firm.

## VII. FORM OF PROPOSAL

Proposals must be signed in ink and include a statement that the person or persons signing the proposal is/are authorized to authorize and submit the proposal on behalf of the Proposer. Page limits, where specified, are for single-sided print. Proposers are encouraged to print double-sided copies to save paper.

Proposal content and completeness are most important. Clarity is essential and will be considered in assessing the Proposer's capabilities.

Proposers must provide the information listed below. Any material deviation from these requirements may be cause for rejection of the proposal, as determined in MTC's sole discretion.

Each proposal must include the following:

### A. Transmittal Letter

Proposals must include a transmittal letter signed by an official authorized to solicit business and enter into contracts for the firm and the name and telephone number of a contact person, if different from the signature. Indicate whether there are any conflicts of interest, actual or apparent, that would limit the Proposer's ability to provide the requested services and describe the plan for mitigating such conflicts. Acknowledge the receipt of any addendum to the RFP. Indicate that the Proposal is a firm offer to enter into a contract to perform work related to this RFP for a period of ninety (90) days from the due date for Proposals.

### B. Title Page

Proposals must include a title page that includes the RFP subject, the name of the Proposer's firm, local address, telephone number, name of contact person, contact person's email address, and the date.

### C. Table of Contents

Proposals must include a table of contents that includes a clear identification of the material by section and page number.

### D. Overview and Summary

This section should clearly convey the Consultant's understanding of the nature of the work and the general approach to be taken, and identify any specific considerations. It should include, but not be limited to, the following:

1. A discussion of the project's purpose;
2. A summary of proposed approach;
3. The assumptions made in selecting the approach; and
4. An organizational chart of key personnel involved on the project.

## E. Work Plan

This section should present a work plan for the tasks described in *Appendix A, Scope of Work*. The proposed work plan should:

1. Discuss how the Consultant will conduct the identified tasks, identify deliverables, and propose a schedule. The proposal should discuss the tasks in sufficient detail to demonstrate a clear understanding of the project and component tasks. The proposal may include additional tasks or sub-tasks the Consultant believes necessary to accomplish the project goals. The schedule should show the expected sequence of tasks, subtasks and milestones.
2. Provide a staffing plan for each task. Provide an organizational chart that shows roles and responsibilities of key personnel and reporting structure, including reporting and communication relationships between MTC, Consultant staff, and subcontractors, if any.
3. Describe approach to managing resources and maintaining quality results. Include a description of the role of any subcontractors, their specific responsibilities, and how their work will be supervised to maintain quality results.
4. Identify and explain any problem areas and/or potential obstacles (such as maintaining schedule, budget overruns, feasibility, etc.) to successful completion of the Scope of Work, attached as *Appendix A*. Discuss methods, formal and informal, that you will use to track and resolve these problems/obstacles during the project.

## F. Qualifications and References

1. Describe proposed team's qualifications specific to the requirements set forth in Section II, Proposer Minimum Qualifications and Requirements. Identify the personnel, including subcontractors' personnel, whose expertise or experience addresses each of the specified needs. Proposers are welcome to identify and provide examples of any other qualifications they feel are critical to the successful completion of the Scope of Work attached as *Appendix A*.
2. Identify key personnel (including subcontractor personnel) and briefly discuss individual qualifications to perform each task. Each key personnel resume should not exceed one page.
3. Provide a succinct description (one page maximum) of any previous projects similar to the services requested, indicating the project title, duration, budget, sponsoring agency and sponsor project manager, and roles played by individuals proposed for this study. Include the name of the agency for whom the work was performed, year performed, name of the contact person and their telephone number.
4. Provide at least one sample of a written technical report or memo and two samples of material developed for a similar study effort. The samples must have been prepared by key members of the Consultant team and should identify the authors. Only one copy of each sample is required, and the samples will be returned after proposal evaluation, upon request. The samples will be considered in evaluating firm and staff expertise and experience, and written presentation effectiveness.

5. Provide a list of references (including references for subcontractors) and their contact information.
6. Provide a summary of all contracts your firm (including subcontractors) has held with MTC, MTC SAFE, BATA or BAHA in the past three years, including a brief description of the scope of work, the contract amount, and date of execution.

#### G. Cost Proposal

Based on the tasks and staffing plan described in response to E.1 and E.2, listed above, provide a breakdown of the expected expenditures of funds for each task in each phase contained in *Appendix A, Scope of Work*. The budget should include, but is not limited to, a task budget and a line item budget with billing rates for each phase.

1. The task budget should present a breakdown of hours and expenses by task and deliverable in each phase of the project. It should identify or refer to key personnel or job descriptions in relation to each task to provide a full explanation of the resources committed to the project.
2. A line item budget should be submitted for each phase of the project. The line item budget should present a breakdown of costs by cost categories, including billing rates for key personnel and job classifications. The line item budget should be set forth on the Cost and Price Analysis Form attached hereto as *Appendix B* to this RFP. A line item budget should also be submitted for proposed sub-consultants with contracts estimated to exceed \$25,000. *Appendix B* is available in electronic spreadsheet format upon request.
3. Please include information (date and outcome) on firm's most recent pre-award audit, if applicable.

#### H. California Levine Act Statement

Submit a signed Levine Act statement (*Appendix C*).

#### I. Insurance Provisions

Submit a signed acknowledgement that your firm agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements listed in *Appendix D-1, Insurance Requirements*, within ten (10) days of MTC's notice to firm that it is the successful Proposer.

(See Section IX.B of the RFP for how to request exceptions to the minimum insurance requirements.)

#### J. Federal Requirements

Submit all completed federal-required certifications in *Appendix F, Federal Requirements*, related to lobbying, debarment, and Disadvantaged Business Enterprise (DBE) subcontractor information (*Appendices F-1, F-2, F-3, F-4, and F-5.*)

## VIII. PROPOSAL EVALUATION

### *A. Verification of Minimum Qualifications*

The Project Manager will review proposals to ensure that each Proposal meets the Minimum Qualifications set out in Section II, Proposer Minimum Qualifications of this RFP. Proposers failing to meet the Minimum Qualifications will not be considered.

### *B. Review for General Responsiveness*

The Project Manager, in consultation with the MTC's Office of General Counsel, will conduct an initial review of the proposals for general responsiveness and inclusion of the items requested in this RFP and its *Appendices*. Proposers failing to meet the Minimum Qualifications and Requirements listed in this RFP or satisfy the federal Disadvantaged Business Enterprise (DBE) requirements (if applicable), will not be considered responsive. Also, any proposal that does not include enough information to permit the evaluators to rate the proposal in any one of the evaluation factors listed below will be considered non-responsive and will not be evaluated. A proposal that fails to include one or more items requested in the Form of Proposal may be considered responsive, if evaluation in every criterion is possible. MTC reserves the right to request additional information from responsive Proposers prior to evaluation.

### *C. Evaluation Panel and Evaluation Criteria*

Responsive proposals will then be evaluated by an evaluation panel composed of co-chairs of the three working groups as well as MTC and ABAG staff. The evaluation of the proposals shall be within the sole judgment and discretion of the evaluation panel.

All contact during the evaluation phase shall be through the MTC Project Manager only. Proposers shall neither contact nor lobby any evaluation panel members during the evaluation process. Attempts by Proposer to contact and/or influence members of the evaluation panel may result in disqualification of Proposer.

Responsive proposals shall be evaluated on the basis of the following evaluation factors, with their relative importance indicated by percentages:

1. Level of experience and expertise with economic, workforce, housing and transportation analysis and strategy at regional and/or sub-regional level in the nine-county Bay Area. (20%)
2. Approach to conducting meaningful and effective technical analysis that informs economic and workforce development strategies for low- and moderate-skilled workers in the region. (15%)
3. Level of experience partnering and/or collaborating with public, private and/or community organizations, and under-represented communities in the nine-county Bay Area on economic and workforce development, housing and/or transportation issues. (15%)
4. Approach to engaging key partners and stakeholders including, public agencies, community organizations, business and labor groups, economic and workforce development organizations, as well as under-represented communities in the strategy development and decision-making process. (15%)
5. Organizational capacity of the consultant team to complete the project deliverables within the project timeframe, including staffing. (10%)

6. Cost effectiveness of the proposal based on hours and budget distributed across tasks. (10%)
7. Communication skills based on written proposal and interview, if held. (15%)

#### ***D. Proposer Discussions***

Following the initial evaluation, the evaluation panel may elect to recommend award to a particular Proposer (with or without interviews), or to enter into discussions with a “short list” of Proposers, consisting of those Proposers reasonably likely, in the opinion of the panel, to be awarded the contract.

The purpose of discussions with a Proposer on the “short list” will be to identify to that Proposer’s specific deficiencies and weaknesses in its proposal and to provide the Proposer with the opportunity to consider possible approaches to alleviating or eliminating them. These deficiencies or weaknesses may include such things as technical issues, management approach, cost, or team composition. Discussions may take place through written correspondence and/or during face-to-face interviews. The Proposer’s project manager, as well as other key personnel identified by the evaluation panel, will be expected to participate in any discussions. A Proposer on the “short list” invited to participate in discussions will be expected to provide a presentation limited to 20 minutes consisting of an overview of its approach to the Project.

### **IX. GENERAL CONDITIONS**

#### ***A. Award***

Any award made will be to the Consultant whose proposal is most advantageous to MTC based on the evaluation criteria defined in Section VIII. If the selected firm fails to enter into a contract with MTC in a timely manner as determined by MTC, in accordance with the terms and conditions of this RFP, MTC reserves the right to reject the proposal of the selected firm and enter into a contract with the next highest scoring firm.

#### ***B. Contract Arrangements***

MTC Standard Consultant Contract is attached as *Appendix D*. If a Proposer wishes to propose a change to any standard MTC contract provision, the provision and the proposed alternative language must be submitted prior to the closing date for receipt of requests for clarifications/exceptions. If no such change is requested, the Proposer will be deemed to accept MTC’s standard contract provisions, unless such language is protested in accordance with Section C below.

The selected Consultant will be required to maintain insurance coverage, during the term of the contract, at the levels described in *Appendix D-1, Insurance Requirements*. Proposer agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements in *Appendix D-1*, within ten (10) days of MTC’s notice that it is the successful Proposer. Requests to change MTC’s insurance requirements should be submitted on or prior to the closing date for receipt of requests for clarifications/exceptions. MTC will review the requests and issue an addendum if material changes requested by a prospective Proposer are acceptable. Objections to MTC determinations on requests to change insurance requirements pursuant to the protest provisions of this RFP must be brought to MTC’s attention no later than the deadline for protesting RFP provisions or compliance with all material insurance requirements will be assumed.

The contract resulting from this RFP will be deliverables based, with payment based on MTC's receipt of satisfactory deliverables.

### ***C. Selection Disputes***

A Proposer may object to a provision of the RFP on the grounds that it is arbitrary, biased, or unduly restrictive, or to the selection of a particular Consultant on the grounds that MTC procedures, the provisions of the RFP or applicable provisions of federal, state or local law have been violated or inaccurately or inappropriately applied by submitting to the Project Manager a written explanation of the basis for the protest:

1. No later than 4:00 p.m. on the third day prior to the date proposals are due, for objections to RFP provisions; or
2. No later than 4:00 p.m. on the third day after the date the firm is notified that it did not meet the minimum qualifications or was found to be non-responsive; or
3. No later than 4:00 p.m. on the third day after the date on which the firm is notified that it was not selected, or if applicable the date the appropriate committee authorizes award, whichever is later, for objections to consultant selection.

Except with regard to initial determinations of non-responsiveness, the evaluation record shall remain confidential until the MTC Executive Director or appropriate MTC Committee authorizes award.

Protests of recommended awards must clearly and specifically describe the basis for the protest in sufficient detail for the MTC review officer to recommend a resolution to the Executive Director or Section Director, as appropriate.

The Executive Director will respond to the protest in writing, based on the recommendation of a staff review officer. Should a Proposer wish to appeal the decision of the MTC Executive Director, it may file a written appeal with the appropriate MTC Committee, no later than 4:00 p.m. on the third day after receipt of the written response from the MTC Executive Director. The appropriate MTC Committee's decision will be the final agency decision.

Authorization to award a contract to a particular Contractor by the appropriate MTC Committee shall be deemed conditional until the expiration of the protest period or, if a protest is filed, the issuance of a written response to the protest by the MTC Executive Director or, if the decision of the MTC Executive Director is appealed, the issuance of the appropriate MTC Committee's decision.

### ***D. Public Records***

This RFP and any material submitted in response to this RFP are subject to public inspection under the California Public Records Act (Government Code § 6250 *et seq.*), unless exempt by law. Other than proprietary information or other information exempt from disclosure by law, the content of proposals submitted to MTC will be made available for inspection consistent with its policy regarding Public Records Act requests.

If the Proposer believes any communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer shall require that MTC withhold from disclosure such proprietary materials by marking each page containing propriety information as confidential and shall include the following notice at the front of its proposal:

“The data on the following pages of this proposal, marked along the right margin with a vertical line, contain technical or financial information which are trade secrets and/or which, if disclosed, would cause substantial injury to the Proposer’s competitive position. The Proposer requests that such data be used for review by MTC only, but understands that exemption from disclosure will be limited by MTC’s obligations under the California Public Records Act. If a contract is awarded to the Proposer submitting this proposal, MTC shall have the right to use or disclose the data, unless otherwise provided by law. [List pages].”

Failure to include this notice with relevant page numbers shall render any “confidential/proprietary” markings inadequate. Individual pages shall accordingly not be treated confidentially. **Any language purporting to render the entire proposal confidential or proprietary will be regarded as ineffective and will be disregarded. In addition, the Proposer may not designate any required Proposal Forms or the cost proposal as confidential.**

In the event properly marked data is requested pursuant to the California Public Records Act, the Proposer will be advised of the request. If the Proposal requests that MTC withhold such data from disclosure and MTC complies with the Proposer’s request, the Proposer shall assume all responsibility for any challenges resulting from the non-disclosure; indemnify MTC and hold it harmless from and against all damages (including but not limited to attorneys’ fees that may be awarded to the party requesting such Proposer information) and pay any and all costs and expenses relating to the withholding of the Proposer information.

If the Proposer does not request that MTC withhold information marked as confidential and requested under the California Public Records Act, MTC shall have no obligation to withhold the information from disclosure, and the Proposer shall not have a right to make a claim or maintain any legal action against MTC or its commissioners, officers, employees, or agents in connection with such disclosure.

### ***E. Key Personnel***

Key staff persons assigned to the project are expected to remain on the project. Any change in key staff persons of the proposed project team is subject to prior written approval of MTC. Removal of any key staff persons identified in the proposal without written consent of the Project Manager may be considered a material breach of contract.

### ***F. Conflicts Of Interest***

By submitting a Proposal, the Proposer represents and warrants that no commissioner, officer or employee of MTC is in any manner interested directly or indirectly in the Proposal or in the contract that may be made under it or in any profits expected to arise therefrom, as set forth in California Government Code Section 1090.

The Proposer further warrants and represents that it presently has no interest and agrees that it will not acquire any interest that would present a conflict of interest under California Government Code Sections 1090 *et seq.* or 87100 *et seq.* during the performance of services under any contract resulting from this RFP and that it will not knowingly employ any person having such an interest. Violation of this provision may result in the contract being deemed void and unenforceable.

Whenever MTC is awarding a contract that involves the rendering of advice, it will consider whether there exists the potential for bias, because of other activities, relationships or contracts of the Proposer,

and if so, whether any potential bias can be mitigated acceptably by MTC and the Proposer. After award, the Consultant shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under the agreement resulting from this and other MTC solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to MTC; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other project.

Proposer shall not engage the services of any subcontractor or independent contractor on any work related to this Agreement if the subcontractor or independent contractor, or any employee of the subcontractor or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

***G. Personally Identifiable Information***

Not Used

***H. Pre-Award Audit***

Not Used.

## APPENDIX A, SCOPE OF WORK

### Project Objectives

The goal of the Regional Economic Development Strategy (Strategy) is to identify ways to expand economic opportunities for low- and moderate-income residents to both “industries of opportunity” and “places of opportunity”. Industries of opportunity include sectors and businesses that can provide jobs with living wages and clearly defined career pathways to low- and moderate-income workers, and can be located close to transit or low-income communities. Places of opportunity are neighborhoods or districts that are well-positioned to benefit from expanded job opportunities, location of new businesses, and support for businesses that locate in or are already located in low-income communities.

The Strategy will build on work already underway or completed by MTC, ABAG and its partners across the region including (also cited in Task 3.1):

- Living Cities, Urban Habitat and Reconnecting America’s *Moving to Work Study*
- East Bay Economic Development Alliance’s *Regional Economic Assessment Report* ([http://eastbayeda.org/research\\_facts\\_figures/building\\_on\\_our\\_assets\\_2011\\_Report.htm](http://eastbayeda.org/research_facts_figures/building_on_our_assets_2011_Report.htm))
- Bay Area Council Economic Institute’s *Bay Area Economic Strategy Framework* (<http://www.bayareaeconomy.org/publications-list/>)
- City of San Jose’s *Economic Development Strategy* (<http://www.sanjoseca.gov/index.aspx?NID=3331>)
- Back Streets Business Advisory Board’s *Made in San Francisco Report* (<http://sfgsa.org/Modules/ShowDocument.aspx?documentid=39>)
- MTC and ABAG’s *Jobs-Housing Connections Strategy, Plan Bay Area*
- Association of Bay Area Government’s *forecast data*

The Strategy must address the following *project objectives*:

- Create a regional, coordinated approach to expanding economic opportunities for low- and moderate-income residents in both transit-served job centers and in communities with high concentration of unemployment and poverty.
- Engage local and regional partners, public and private sector stakeholders, low- and moderate-income communities, and the three project working groups in conducting the technical analysis and developing the regional strategy.
- Develop a strategy framework and action plan to inform local and regional economic development activities, workforce training and job placement programs, small business development initiatives, as well as regional transportation infrastructure investments.
- Inform the strategy framework and action plan with quantitative and qualitative research and analysis, some of which has already been conducted by partners in the region.
- Identify the types of potential partnerships and collaborations that can support expanded economic opportunities for low- and moderate-income residents.
- Identify opportunities for integrating FOCUS and Plan Bay Area in the regional strategy.
- Identify and prioritize the types of potential pilot projects that can be funded through the Regional Prosperity Plan sub-grants.
- Develop recommendations for supporting implementation of the regional strategy beyond spring 2015

The Strategy must also strive to achieve the following *outcomes*:

- Coordinated economic development, land use, transportation and housing initiatives at the regional and sub-regional level attracts and expands industry sectors and business clusters at the local level, and provides economic opportunities to low- and moderate-income residents.
- Coordinated workforce training, job placement and small business development programs at the regional and sub-regional level support low- and moderate-income workers and small businesses, and integrates them into the regional economy.
- Public, private and community-based organizations are engaged in implementation of the strategies and have the capacity to support ongoing efforts.

Once the Strategy has been finalized, the Economic Prosperity Working Group will issue a call for projects that will provide more than \$1 million in grants on a competitive basis to implement four to six pilot projects. These pilot projects will inform any refinements or updates to the Strategy after spring 2015.

### **Scope of Work**

The scope of work for the Regional Economic Development Strategy includes the tasks listed below. Note that the tasks are not sequential. For example, Task 2 will be implemented over the entire course of the project. Consultants or consultant teams are encouraged to suggest alternative approaches and additional tasks that would contribute to the success of the project but can be accomplished within the existing project budget.

#### **Task 1: Project Management and Coordination**

Consultant shall manage the scope, budget and schedule for the project and must submit quarterly progress reports and invoices, along with backup documentation, as required by the contract.

Consultant shall schedule and participate in bi-weekly project status calls and/or in-person meetings with MTC and ABAG staff to coordinate project activities and deliverables.

*Deliverables: Progress reports, invoices and backup documentation; notes for bi-weekly calls and meetings with project staff*

#### **Task 2: Outreach and Engagement**

The Regional Prosperity Project is a stakeholder-driven process and stakeholder involvement in all aspects of this project is critical to successful implementation. The outreach and engagement activities should consider geographic diversity of the region, and promote collaboration among all stakeholders and partners.

##### **2.1 Outreach and Engagement Strategy**

With input from MTC, ABAG, the Economic Prosperity Working Group (EPWG) and the Equity Collaborative (EC), consultant shall develop a Stakeholder Outreach and Engagement Plan for the Strategy. The Outreach Plan must identify the range of stakeholders who will be involved in the process including, but not limited to: community-based organizations and advocacy groups that represent underserved areas, business groups and labor organizations, education and workforce training agencies, economic development agencies, transit agencies, other local and regional public agencies and elected officials, among others. The Outreach and Engagement Plan shall at a minimum include the sub-tasks identified under Task 2. The consultant or consultant team shall be responsible for implementing the activities identified in the Outreach and Engagement Plan.

*Deliverables: Draft and Final Outreach and Engagement Plan*

## **2.2 Key Stakeholder Interviews (25 maximum)**

Consultant shall coordinate with MTC, ABAG, EPWG and the EC to develop a survey instrument, and identify a list of potential stakeholders to interview. Stakeholders to be interviewed must represent both local and regional perspectives, as well as the public, private and non-profit sectors. Consultant shall schedule and conduct up to twenty five (25) one-on-one and/or group interviews to get input on key challenges, opportunities and priorities that should be addressed by the Strategy. Consultant shall review other surveys that have been conducted by partners in the region to gather similar information. Similar surveys were conducted for the following two projects: Bay Area Council Economic Institute for the Bay Area Economic Strategy Framework, and Living Cities, Urban Habitat and Reconnecting America's Moving to Work Study.

*Deliverables: Survey Instrument; Summary of Findings (memo format)*

## **2.3 Committee and Working Groups Meetings (15 meetings total)**

Consultant shall attend a total of fifteen (15) meetings of the project Steering Committee, EPWG and the EC to review work program and/or draft and final deliverables over the course of the project. The meetings will be identified in coordination with MTC and ABAG staff and Committee/Working Group co-chairs.

*Deliverables: Summary of input from Committee and Working Group meetings (memo format); draft and final presentations; and meeting materials for each meeting*

## **2.4 Stakeholder Convenings (14 convenings total; 2 rounds)**

In coordination with MTC, ABAG, EPWG and EC, consultant shall plan for and conduct two (2) rounds of seven (7) convenings each with stakeholders across the region to get input on key project deliverables. The two rounds of outreach activities may be tied to the following milestones: preliminary technical analysis report (task 3); and draft/final Strategy document (task 4). Convenings could be organized based on geography (such as with the East Bay Green Corridor communities or in a low-income community) as well as strategy area (such as with workforce investment boards or economic development agencies). The two rounds of convenings may be with the same or different set of stakeholders.

*Deliverables: Plan for and schedule stakeholder convenings; meeting materials; presentations; meeting summary for each round of stakeholder convenings*

## **2.5 Sub-Regional Convenings (7 convenings total; 1 round)**

In coordination with MTC, ABAG, EPWG and EC, consultant shall plan for and conduct seven (7) sub-regional convenings with multiple stakeholders to get input on potential strategies and actions to implement the strategy framework. Convenings could be organized based on geography (such as with the East Bay Green Corridor communities or by county) and could include small and large employers; business groups; workforce investment boards; community colleges; city and county economic development, planning and housing agencies; community groups and leaders, and elected officials, among others.

*Deliverables: Plan for and schedule convenings; meeting materials; presentations; meeting summary for sub-regional convenings*

## **2.6 Technical Advisory Group Meetings (6 meetings total)**

In coordination with MTC, ABAG, EPWG and EC, consultant shall plan for and conduct six (6) sub-regional convenings of a technical advisory group (TAG) composed of key leaders with a range of stakeholders to get input on potential strategies and actions to implement the strategy framework. Convenings could be organized based on geography (such as with the East Bay Green Corridor communities or by county).

*Deliverables: Plan for and schedule TAG meetings; meeting materials; presentations; meeting summary for each TAG meeting*

## **Task 3: Research and Analysis**

### **3.1 Existing Research and Findings**

A number of studies and plans that are relevant to the economic strategy have either been completed recently or are currently underway. Consultant shall coordinate with MTC, ABAG, EPWG and EC to identify these efforts, review them and integrate findings into the analysis (Task 3.2). Consultant shall identify gaps that need further analysis. Examples of existing research include but are not limited to:

- Living Cities, Urban Habitat and Reconnecting America's *Moving to Work Study*
- East Bay Economic Development Alliance's *Regional Economic Assessment Report* ([http://eastbayeda.org/research\\_facts\\_figures/building\\_on\\_our\\_assets\\_2011\\_Report.htm](http://eastbayeda.org/research_facts_figures/building_on_our_assets_2011_Report.htm))
- Bay Area Council Economic Institute's *Bay Area Economic Strategy Framework* (<http://www.bayareaeconomy.org/publications-list/>)
- City of San Jose's *Economic Development Strategy* (<http://www.sanjoseca.gov/index.aspx?NID=3331>)
- Back Streets Business Advisory Board's *Made in San Francisco Report* (<http://sfgsa.org/Modules/ShowDocument.aspx?documentid=39>)
- MTC and ABAG's *Jobs-Housing Connections Strategy, Plan Bay Area*
- Association of Bay Area Government's *forecast data*

*Deliverables: List of relevant existing research; summary of key findings, gaps that need further analysis in Task 3.2*

### **3.2 Technical Analysis**

Building on Task 3.1, consultant shall conduct additional qualitative and quantitative analysis at the regional and sub-regional level (still to be defined) to fill gaps in research (based on findings from task 3.1) with the goal of identify "industries of opportunity" and "places of opportunity." Consultant shall present findings geographically in map format where possible. Based on findings from tasks 3.1 and 3.2 summarize the results in a report that includes the following components:

- Forecasts for business and employment growth by industry sectors and business clusters for the Bay Area. Differentiate the industry sectors and business clusters that can provide quality job opportunities to low- and moderate-income workers (target sectors and clusters). Define a horizon for the forecast as well as "quality jobs" in consultation with MTC, ABAG and EPWG. Present findings geographically in a series of maps. Target sectors and clusters should:
  - Provide a range of living-wage jobs with clear pathways to advancement;
  - Have growth potential and a competitive advantage in the Bay Area;
  - Require medium-skilled labor that can be trained locally, if needed;

- Be suitable to be located in transit-accessible areas;
- Be suitable to locate in disadvantaged communities without causing negative impacts such as displacement and pollution; and/or
- Have the potential to employ a diverse workforce.
- Areas that are suited to or have the capacity to accommodate jobs in target sectors and clusters AND are or are not connected by high-quality transit to high-need areas OR are located in high-need communities. Conduct a land capacity analysis that documents areas in the region that can support job growth in target sectors and clusters (land availability and supportive regulatory environment). Present findings geographically in a series of maps.
- Definition of high-need, disadvantaged or underserved areas in the region. Coordinate with MTC, ABAG, EPWG and EC to develop a definition for high-need areas. Consider definitions developed by partner agencies such as the Bay Area Air Quality Management District. Criteria for defining high-need areas should include: communities with high poverty and unemployment rates, and low education attainment that may or may not have access to high-quality public transit, living wage jobs, affordable housing and education opportunities. Present findings geographically in a series of maps.
- Regional travel patterns, commute lengths and travel costs for low- and moderate-income residents by mode type. Determine the ability of these residents to access areas in the region that are expected to accommodate job growth in target sectors and clusters. Present findings geographically in a series of maps.
- Key barriers and challenges to attracting, retaining and expanding jobs and businesses in target sectors and clusters. Barriers and challenges may include but are not limited to skills and education match, infrastructure deficiencies, local land use policies and/or regulations, lack of incentives, lack of supportive business environment, lack of affordable real estate, potential for displacement, among others.
- Key barriers and challenges to matching or placing low- and moderate-income residents with or in quality jobs in target sectors and clusters that are forecast to grow in the future.

*Deliverables: Memorandum summarizing results of the analysis including, maps, analysis tables, charts and descriptive text (memo format); PowerPoint Presentation*

### **3.3 Summary of Results**

Consultant shall summarize results and findings from the review of exiting research (Task 3.1), technical analysis (Task 3.2) and stakeholder input (Task 2) into a draft and final report as well as a summary PowerPoint presentation.

*Deliverables: Draft and Final Technical Analysis Report and Map Library; PowerPoint Presentation*

#### **Task 4: Strategy Framework**

Building on the findings from tasks 2 and 3, consultant shall engage the EPWG, EC and the Steering Committee in developing a strategy framework for improving economic and workforce training opportunities and public transportation access for low- and moderate-income workers in the Bay Area. The framework shall be strategic, implementable and realistic. For each strategy or category of strategies, identify preliminary timeframes for implementation, lead and support agencies or organizations, and potential resources for implementation. Consultant shall identify processes, institutional mechanisms (such as legislation, advocacy, regional governance structures, etc.) and partnerships that are needed for implementing the strategy framework. Consultant shall identify performance measures to track progress over time, and a process of updating and refining the framework.

Consultant shall identify and document a range of applicable best practices and models for addressing barriers and challenges (identified in Task 3.2) to attracting, retaining and expanding jobs and businesses in target sectors and clusters, and provide workforce training for low- and moderate-income residents to be placed in quality jobs. Identify and document applicable strategies that are already being implemented or are planned to be implemented in the Bay Area by partner organizations.

Consultant shall identify policies, programs and projects at the regional, sub-regional and local level that can help implement the strategy framework. Consultant shall coordinate with MTC, ABAG and EPWG to prioritize the type of projects and programs that can be funded through sub-grants in the implementation phase of the project. Consultant shall review and draft and final strategy document with stakeholders, Steering Committee, EPWG and EC.

*Deliverables: Summary of best practices and models (memo format); Summary of existing strategies in the Bay Area; Draft and Final Regional Economic Development Strategy; PowerPoint Presentation*

### APPENDIX B, COST AND PRICE ANALYSIS FORM

COST AND PRICE ANALYSIS - RESEARCH AND DEVELOPMENT CONTRACTS				
This form is to be used in lieu of FAA Form 3515 as provided under FAPR 2-16.260-2, it will be executed and submitted with proposals in response to "Requests for Proposals", for procurement of research and development services. If your cost accounting system does not permit analysis of costs as required, contact the purchasing office for further instructions.			PURCHASE REQUEST NUMBER	
NAME AND ADDRESS OF OFFERER		TITLE OF PROJECT		
DETAIL DESCRIPTION		ESTIMATED HOURS	RATE/HOUR	TOTAL ESTIMATED COST (Dollars)
1. DIRECT LABOR (Specify)				
TOTAL DIRECT LABOR				
2. BURDEN (Overhead-specify) Dept. or Cost Center		Burden Rate	X BASE	BURDEN (\$)
TOTAL BURDEN				
3. DIRECT MATERIAL				
TOTAL MATERIAL				
4. SPECIAL TESTING (Including field work at Government installations)				
TOTAL SPECIAL TESTING				
5. SPECIAL EQUIPMENT (If direct charge - specify in Exhibit B on reverse)				
6. TRAVEL (If direct charge)				
a. TRANSPORTATION				
b. PER DIEM OR SUBSISTENCE				
TOTAL TRAVEL				
7. CONSULTANTS (Identify - purpose - rate)				
TOTAL CONSULTANTS				
8. SUBCONTRACTORS (Specify in Exhibit A on reverse)				
9. OTHER DIRECT COSTS (Specify in Exhibit B on reverse - explain royalty costs, if any)				
10. TOTAL DIRECT COST AND BURDEN				
11. GENERAL AND ADMINISTRATIVE EXPENSE (Rate % of item nos.)				
12. TOTAL ESTIMATED COST				
13. FIXED FEE OR PROFIT (State basis for amount in proposal)				
14. TOTAL ESTIMATED COST AND FIXED FEE OR PROFIT				
15. OVERHEAD RATE AND GENERAL AND ADMINISTRATIVE RATE INFORMATION				
A. GOVERNMENT AUDIT PERFORMED		DATE OF AUDIT	ACCOUNTING PERIOD COVERED	
B. NAME AND ADDRESS OF GOVERNMENT AGENCY MAKING AUDIT		C. DO YOUR CONTRACTS PROVIDE NEGOTIATED OVERHEAD RATES? ( ) NO ( ) YES <i>(IF YES, NAME AGENCY NEGOTIATING RATES)</i>		

D. (If no Government rates have been established, furnish the following information)			
DEPARTMENT OR COST CENTER	RATE	TOTAL INDIRECT EXPENSE POOL	BASE FOR TOTAL
16. EXHIBIT A - SUBCONTRACT COSTS (If more space needed, use blank sheets, identify item number)			
NAME AND ADDRESS OF SUBCONTRACTOR(S)	SUBCONTRACTED WORK	SUBCONTRACT	
		TYPE	AMOUNT
TOTAL			
17. EXHIBIT B - OTHER DIRECT COSTS (If more space needed, use blank sheets, identify item number)			
TOTAL			
<b>CERTIFICATE</b>			
<p>The labor rates and the overhead costs are current and other estimated costs have been determined by generally accepted accounting principles. Bidder represents: (a) that he ___has, ___has not, employed or retained any company or person (other than a full-time bona fide employee working solely for the bidder) to solicit or secure his contract, and (b) that he ___has, ___has not, paid or agreed to pay to any company or person (other than a full-time bona fide employee working solely for the bidder) any fee, commission, percentage or brokerage fee, contingent upon or resulting from the award of this contract, and agrees to furnish information relating to (a) and (b) above, as requested by the Contracting Officer.</p> <p><i>For interpretation of the representation including the term "bona fide employee," see Code of Federal Regulations, Title 44, Part 150.</i></p>			
NO. OF CONTRACTOR EMPLOYEES:		STATE INCORPORATED IN:	
<input type="checkbox"/> 500 AND UNDER <input type="checkbox"/> OVER 500 <input type="checkbox"/> OVER 750 <input type="checkbox"/> OVER 1,000			
DATE	SIGNATURE AND TITLE OF AUTHORIZED REPRESENTATIVE OF CONTRACTOR		

**APPENDIX C, CALIFORNIA LEVINE ACT STATEMENT**

California Government Code § 84308, commonly referred to as the “Levine Act,” precludes an officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the officer, or received by the officer on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

MTC’s commissioners include:

Tom Azumbrado  
Tom Bates  
Mark Green  
Sam Liccardo  
Jake Mackenzie  
Bill Dodd  
David Campos

Dorene M. Giacomini  
Federal D. Glover  
Scott Haggerty  
Anne W. Halsted  
Steve Kinsey  
Kevin Mullin

Scott Weiner  
Bijan Sartipi  
James P. Spering  
Adrienne J. Tissier  
Amy Rein Worth  
Dave Cortese

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any MTC commissioner in the 12 months preceding the date of the issuance of this request for qualifications?

YES       NO

If yes, please identify the commissioner: \_\_\_\_\_

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any MTC commissioners in the three months following the award of the contract?

YES       NO

If yes, please identify the commissioner: \_\_\_\_\_

Answering yes to either of the two questions above does not preclude MTC from awarding a contract to your firm. It does, however, preclude the identified commissioner(s) from participating in the contract award process for this contract.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
(SIGNATURE OF AUTHORIZED OFFICIAL)

\_\_\_\_\_  
(TYPE OR WRITE APPROPRIATE NAME, TITLE)

\_\_\_\_\_  
(TYPE OR WRITE NAME OF COMPANY)

**APPENDIX D, MTC STANDARD CONSULTANT CONTRACT**

See Appendix D, posted at <http://procurements.mtc.ca.gov/>

### APPENDIX D-1, INSURANCE REQUIREMENTS

Minimum Insurance Coverages. Consultant shall, at its own expense, obtain and maintain in effect at all times the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement, placed with insurers with a Best's rating of A-VIII or better.

Yes (√)	<b>Please certify by checking the box below that required coverages will be provided within five (5) days of MTC's notice to firm that it wishes to contract with the firm.</b>
—	<u>Workers' Compensation Insurance</u> with Statutory limits, and Employer's Liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of CONSULTANT's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of MTC. Such Workers Compensation & Employers Liability may be waived, if and only for as long as CONSULTANT is a sole proprietor or a corporation with stock 100% owned by officers with no employees.
—	<u>Commercial General Liability Insurance</u> for Bodily Injury and Property Damage liability, covering the operations of CONSULTANT and CONSULTANT's officers, agents, and employees and with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of MTC.  MTC, U.S. HUD and ABAG and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONSULTANT's operations.
—	<u>Business Automobile Insurance</u> for all automobiles owned (if any), used or maintained by CONSULTANT and CONSULTANT's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.
—	<u>Umbrella Insurance</u> in the amount of \$1,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.
—	<u>Errors and Omissions Professional Liability Insurance</u> for errors and omissions and the resulting damages, including, but not limited to, economic loss to MTC and having minimum limits of \$1,000,000 per claim. The policy shall provide coverage for all work

	performed by CONSULTANT and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of the CONSULTANT. No contract or agreement between CONSULTANT and any subcontractor/consultant shall relieve CONSULTANT of the responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by CONSULTANT and any subcontractor/consultant working on behalf of CONSULTANT on the project.
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—	<u>Property Insurance.</u> Property Insurance covering CONSULTANT'S own business personal property and equipment to be used in performance of this Agreement, materials or property to be purchased and/or installed on behalf of MTC (if any), and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of MTC.
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MTC, U.S. HUD, ABAG and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from Consultant's operations.

All policies will be issued by insurers acceptable to MTC, generally with a Best's Rating of A-VIII or better.

Consultant's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to MTC.

Consultant shall be responsible for payment of any deductible or retention on Consultant's policies without right of contribution from MTC. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that MTC seeks coverage as an additional insured under any Consultant insurance policy that contains a deductible or self-insured retention, Consultant shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of Consultant, subconsultant, subcontractor, or any of their employees, officers or directors, even if Consultant or subconsultant is not a named defendant in the lawsuit.

If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, Consultant shall:

1. Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement;
2. Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and
3. If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, Consultant shall

purchase “extended reporting” coverage for a minimum of three (3) years after completion of the work.

All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of Consultant’s personnel, subcontractors, and equipment have been removed from MTC’s property, and the work or services have been formally accepted. Consultant must notify MTC if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

Prior to commencement of any work hereunder, Consultant shall deliver to MTC Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.

The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Consultant pursuant hereto, including, but not limited to, liability assumed pursuant to the Indemnification section of this Agreement.

**By signing below you acknowledge and agree to provide the required certificate of insurance providing verification of the minimum insurance requirements listed above within ten (10) days of MTC’s notice to firm that it wishes to contract with the firm.**

Representative Name and Title	
Name of Authorizing Official	
Authorized Signature	
Date	

**NOTE: If you were unable to check “Yes” for any of the required minimum insurance coverages listed above, a request for exception to the appropriate insurance requirement(s) must be brought to MTC’s attention no later than closing date/time for receipt of requests for clarifications/exceptions. If such modifications/exceptions are not brought to MTC’s attention consistent with the provisions of this RFP, compliance with the insurance requirements will be assumed.**

## APPENDIX F, FEDERAL REQUIREMENTS

Federally-required contract provisions are listed below and in *Appendix D, MTC's Standard Consultant Agreement*, in its Attachment H and its subparts. In addition, the federal requirements in this *Appendix F* shall apply to any contract resulting from this RFP.

The U.S. Dept. Of Housing & Urban Development (HUD) regulations found that 24 CFR part 85.36 shall apply to this contract. In order to comply with these regulations:

**MTC has established Disadvantaged Business Enterprise (DBE) goal of 5.2% for any contract entered into as a result of this RFP, using the information and guidelines outlined below.**

### 1. TERMS AS USED IN THIS DOCUMENT

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

### 2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Agreements financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation (Department) Financial Assistance Programs”). The Contractor should ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The Proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

### 3. SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, *Appendix F-3, “Local Agency Consultant DBE Commitment”* form and *Appendix F-4, “Local Agency Consultant DBE Information”* form shall

be included in the procurement document. In order for a Proposer to be considered responsible and responsive, the Proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the Proposer must document adequate good faith efforts. All DBE participation will be counted towards the contract goal, and all DBE participation shall be collected and reported.

*Appendix F-3, “Local Agency Consultant DBE Commitment” form and Appendix F-4, “Local Agency Consultant DBE Information” form shall be included with the procurement document. The purpose of the forms is to collect data required under 49 CFR 26. These forms collect all DBE participation. Even if no DBE participation will be reported, the successful Proposer must execute and return the forms.*

#### **4. DBE PARTICIPATION GENERAL INFORMATION**

It is the Proposer’s responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department’s DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE Proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
  - 1. The Proposer is a DBE and will meet the goal by performing work with its own forces.
  - 2. The Proposer will meet the goal through work performed by DBE subcontractors, suppliers or trucking companies.
  - 3. The Proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The Proposer shall list only one subcontractor for each portion of work as defined in their proposal and all DBE subcontractors should be listed in the bid/cost proposal list of subcontractors.
- G. A prime contractor who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.

## 5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
- B. Access the CUCP database from the Department of Transportation, Civil Rights, Business Enterprise Program web site at: <http://www.dot.ca.gov/hq/bep/>.
- Click on the link in the left menu titled *Disadvantaged Business Enterprise*
  - Click on *Search for a DBE Firm* link
  - Click on *Access to the DBE Query Form* located on the first line in the center of the page
  - Searches can be performed by one or more criteria
  - Follow instructions on the screen
- C. How to Obtain a List of Certified DBEs without Internet Access: DBE Directory - If you do not have Internet access, Caltrans also publishes a directory of certified DBE firms extracted from the online database. A copy of the directory of certified DBEs may be ordered from the Caltrans Publications Unit at (916) 263-0822, 1900 Royal Oaks Drive, Sacramento, CA 95815-3800.

## 6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS THE DBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packers,

brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.

- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

## **APPENDIX F-1, CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

(Third Party Contracts and Subcontracts over \$25,000)

### **Instructions for Certification:**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the signed certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, MTC may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to MTC if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “persons,” “lower tier covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact MTC for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by MTC.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.

8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which does a prudent person in the ordinary course of business dealings normally possess.
9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, MTC may pursue available remedies including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion  
Lower Tier Covered Transaction**

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its “principals” [as defined at 49 CFR Section 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Date

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(signature of authorized official)

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(type/print name and title)

**APPENDIX F-2, CERTIFICATION OF RESTRICTIONS ON LOBBYING**

I, \_\_\_\_\_ hereby certify on behalf of \_\_\_\_\_ that:  
(name and title of grantee official) (name of grantee)

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any 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 any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any 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.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

By:

\_\_\_\_\_  
(signature of authorized official)

\_\_\_\_\_  
(title of authorized official)

### APPENDIX F-3, LOCAL AGENCY CONSULTANT DBE COMMITMENT (Inclusive of all DBEs at time of proposal)

NOTE: Please refer to instructions on the reverse side of this form.

<b>Consultant to Complete this Section</b>			
1. Local Agency Name: _____			
2. Project Location: _____			
3. Project Description: _____			
4. Consultant Name: _____			
5. Contract DBE Goal %: _____			
<b>DBE Commitment Information</b>			
6. Description of Services to be Provided	7. DBE Firm Contact Information	8. DBE Cert. Number	9. DBE %
<b>Local Agency to Complete this Section</b>		10. Total % Claimed	_____ %
16. Local Agency Contract Number: _____			
17. Federal-aid Project Number: _____			
18. Proposed Contract Execution Date: _____			
Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:		11. Preparer's Signature _____	
19. Local Agency Representative Name (Print) _____		12. Preparer's Name (Print) _____	
20. Local Agency Representative Signature _____	21. Date _____	13. Preparer's Title _____	
22. Local Agency Representative Title _____	23. (Area Code) Tel. No. _____	14. Date _____	15. (Area Code) Tel. No. _____

**Distribution:** (1) Original – Submit with Award Package  
(2) Copy – Local Agency files

## INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE COMMITMENT

### Consultant Section

*The Consultant shall:*

1. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
2. **Project Location** - Enter the project location as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc)..
4. **Consultant Name** - Enter the consultant's firm name.
5. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
6. **Description of Services to be Provided** - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
7. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
8. **DBE Cert. Number** - Enter the DBEs Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
9. **DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
10. **Total % Claimed** – Enter the total participation claimed. If the Total % Claimed is less than item “6. Contract DBE Goal”, a Good Faith Effort (GFE) is required.
11. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
12. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
13. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
14. **Date** - Enter the date this section of the form is signed by the preparer.
15. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

### Local Agency Section:

*The Local Agency representative shall:*

16. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
17. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
18. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
19. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
20. **Local Agency Representative Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
21. **Date** - Enter the date the Local Agency Representative signs the form.
22. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
23. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

## APPENDIX F-4, LOCAL AGENCY CONSULTANT DBE INFORMATION

(Inclusive of all DBEs listed at bid proposal)

NOTE: Please refer to instructions on the reverse side of this form.

<b>Consultant to Complete this Section</b>			
1. Local Agency Name: _____			
2. Project Location: _____			
3. Project Description: _____			
4. Total Contract Award Amount: \$ _____			
5. Consultant Name: _____			
6. Contract DBE Goal %: _____			
7. Total Dollar Amount for <u>all</u> Subcontractors: \$ _____			
8. Total Number of <u>all</u> Subcontractors: _____			
<b>Award DBE Information</b>			
9. Description of Services to be Provided	10. DBE Firm Contact Information	11. DBE Cert. Number	12. DBE Dollar Amount
<b>Local Agency to Complete this Section</b>		13. Total Dollars Claimed	12. DBE Dollar Amount
20. Local Agency Contract Number: _____		\$ _____	_____ %
21. Federal-aid Project Number: _____			
22. Contract Execution Date: _____		14. Total % Claimed	
Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:			
23. Local Agency Representative Name (Print) _____		15. Preparer's Signature _____	
24. Local Agency Representative Signature _____	25. Date _____	16. Preparer's Name (Print) _____	
26. Local Agency Representative Title _____	27. (Area Code) Tel. No. _____	17. Preparer's Title _____	
<b>Caltrans to Complete this Section</b>			
Caltrans District Local Assistance Engineer (DLAE) certifies that this form has been reviewed for completeness:			
28. DLAE Name (Print) _____	29. DLAE Signature _____	30. Date _____	18. Date _____
		19. (Area Code) Tel. No. _____	

**Distribution:** (1) Copy – Email a copy to the Caltrans District Local Assistance Engineer (DLAE) within 30 days of contract award. Failure to send a copy to the DLAE within 30 days of contract award may result in delay of payment.  
(2) Copy – Include in award package sent to Caltrans DLAE (3) Original – Local agency files

## INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE INFORMATION

### Consultant Section

*The Consultant shall:*

1. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
2. **Project Location** - Enter the project location as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
4. **Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
5. **Consultant Name** - Enter the consultant's firm name.
6. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
7. **Total Dollar Amount for all Subcontractors** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
8. **Total number of all subcontractors** – Enter the total number of all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
9. **Description of Services to be Provided** - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
10. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
11. **DBE Cert. Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
12. **DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE, and include DBEs that are not identified as subcontractors on the Exhibit 10-O1 form. See LAPM Chapter 9 for how to count full/partial participation.
13. **Total Dollars Claimed** – Enter the total dollar amounts for columns 12 and 13.
14. **Total % Claimed** – Enter the total participation claimed for columns 12 and 13. SUM = (item "14. Total Participation Dollars Claimed" divided by item "4. Total Contract Award Amount"). If the Total % Claimed is less than item "6. Contract DBE Goal", a Good Faith Effort (GFE) is required.
15. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
16. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
17. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
18. **Date** - Enter the date this section of the form is signed by the preparer.
19. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

### Local Agency Section:

*The Local Agency representative shall:*

20. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
21. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
22. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
23. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
24. **Local Agency Representative Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
25. **Date** - Enter the date the Local Agency Representative signs the form.
26. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
27. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

### Caltrans Section:

*Caltrans District Local Assistance Engineer (DLAE) shall:*

28. **DLAE Name (Print)** – Clearly enter the name of the DLAE.
29. **DLAE Signature** – DLAE must sign this section of the form to certify that it has been reviewed for completeness.
30. **Date** - Enter the date that the DLAE signs this section the form.

**APPENDIX F-5, DBE INFORMATION – GOOD FAITH EFFORTS**

Federal-aid Project No. \_\_\_\_\_ Bid Opening Date \_\_\_\_\_

The Metropolitan Transportation Commission has established a Disadvantaged Business Enterprise (DBE) goal of 5.2 % for this project. The information provided herein shows that a good faith effort was made.

Lowest, second lowest and third lowest bidders shall submit the following information to document adequate good faith efforts. Bidders should submit the following information even if the “Local Agency Bidder DBE Commitment” form indicates that the bidder has met the DBE goal. This will protect the bidder’s eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

Submittal of only the “Local Agency Bidder DBE Commitment” form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

The following items are listed in the Section entitled “Submission of DBE Commitment” of the Special Provisions:

- A. The names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

Publications:

Date of Advertisement:

Publications:	Date of Advertisement:

- B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

Names of DBEs Solicited:

Date of Initial Solicitation:

Follow Up Methods and Dates:

Names of DBEs Solicited:	Date of Initial Solicitation:	Follow Up Methods and Dates:

C. The items of work which the bidder made available to DBE firms including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation was made available to DBE firms.

Item of Work:	Bidder Normally Performs Item (Y/N):	Breakdown of Items:	Amount (\$):	Percentage of Contract:

D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

Names, addresses and phone numbers of rejected DBEs and the reasons for the bidder's rejection of the DBEs:

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Names, addresses and phone numbers of firms selected for the work above:

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E. Efforts made to assist interested DBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs:

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F. Efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:

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G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

Name of Agency/Organization:	Method/Date of Contact:	Results:
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H. Any additional data to support a demonstration of good faith efforts (use additional sheets if necessary):

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**NOTE:** USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.

## **APPENDIX G, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) PROGRAM REQUIREMENTS**

**HUD Flow Down Provisions.** As a HUD Grantee, when MTC contracts or subawards its awarded HUD funds under an agreement with a person or entity to perform work, MTC must include in the contract or subaward agreement those provisions as may be necessary to ensure that all contractors and subgrantees comply with the requirements of the grant and reporting provisions as set forth in the HUD award terms and conditions or as established by HUD and the Office of Management and Budget (OMB).

Selected provisions of MTC's HUD Cooperative Agreement are stated in summary fashion below. However, consistent with the flow down requirements of the Cooperative Agreement, all applicable terms and conditions in the Cooperative Agreement apply in their entirety to the work under this RFP. The Cooperative Agreement Provisions are attached hereto as Appendix G, Attachment 1.

**Prohibited Use of Grant Funds.** The Cooperative Agreement identifies ineligible activities for which the grant funds may not be used. No increment above cost, fee, or profit may be paid to the RECIPIENT under this Agreement. . The Consultant's agreements with its subgrantees shall require its subgrantees to use the grant funds only for the subgrantee projects and activities identified in the Work Plan.

**Accounting and Records.** The Consultant agrees to establish and maintain accurate and complete accounts and records relating to the receipt and expenditure of all grant funds received from MTC. Such accounts and records shall be kept by the Consultant and maintained for a period of three (3) years following the completion of the Work Plan activities described in Attachment B or three (3) years following the expenditure of the grant funds, whichever occurs earlier. Accounting methods shall be in accordance with generally accepted accounting principles.

**Audits.** The above accounts and records of the Consultant shall be audited in the same manner as all other accounts and records of the Consultant are audited and may be audited or inspected on the Consultant's premises or otherwise by HUD, the Comptroller of the United States, or any of their designees, and individuals or organizations designated and authorized by the MTC at any time, following reasonable notification to the Consultant, for a period of three (3) years following the completion of the Project activities or three (3) years following the expenditure of the grant funds, whichever occurs earlier.

**Federal Transparency Act.** As required, the Consultant will directly provide "subaward" data to HUD, or otherwise will assist MTC in complying with the requirements of the Federal Funding Accountability and Transparency Act of 2006.

**Copyrights.** HUD reserves a royalty-free, non-exclusive, an irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for federal government purposes: (a) the copyright in any work developed under this Agreement; and (b) any rights of copyright to which the Consultant purchases ownership with the grant funds.

**Fair Housing and Civil Rights Laws.** The Consultant represents, warrants, and certifies that it will comply with all applicable federal statutes, regulations, and requirements relating to nondiscrimination and equal opportunity identified in HUD's regulations at Title 24 Code of Federal Regulations section 5.105(a).

**Conflict of Interest.** The members, officers and employees of the Consultant shall comply with all applicable state statutory and regulatory conflict of interest laws and provisions.

**HUD Involvement.** HUD intends to have substantial involvement in the review, development, and approval of all aspects of the work plans and activities funded under the Cooperative Agreement, including the performance of the Consultant's Work Plan. .

**Inspector General Referrals.** The Consultant shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, subcontractor, subgrantee or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds.

**Limitations on Consultant Payments.** The grant funds may not be used to pay or to provide reimbursement for payment of a Consultant's salary during any one-year period at a rate more than the equivalent of General Schedule 15, Step 10 base pay. .

**Limitation on Payments to Influence Certain Federal Transactions.** No grant funds may be used to pay any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any "covered Federal actions."

**Contractors, Subcontractors and Subgrantees.** The Consultant shall include in any subgrant, contract or subcontract for Work Plan activities appropriate provisions to ensure subgrantee, contractor and subcontractor compliance with all applicable state and federal laws, this agreement and the Cooperative Agreement. If requested by MTC the Consultant will provide MTC with a copy of any subgrant, contract or subcontract between the Consultant and any subgrantee, contractor or subcontractor.

**APPENDIX G, ATTACHMENT 1  
COOPERATIVE AGREEMENT PROVISIONS**

## **COOPERATIVE AGREEMENT PROVISIONS**

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## A. GENERAL

### 1. Overview of Award Implementation

This cooperative agreement/grant (also referred to as *Agreement*) is between the Grantee (*Recipient*) identified in Block 7 of the form HUD-1044, and the U.S. Department of Housing and Urban Development. The award agreement consists of the form HUD-1044, any special conditions, and these Cooperative Agreement Terms and Conditions.

In signing this *Agreement*, the Grantee agrees to comply with all the requirements and conditions contained herein.

The provisions of the Notice of Funding Availability (NOFA) are hereby incorporated into this *Agreement*.

The Grantee's rights under this *Agreement* may not be assigned without the prior written approval of HUD.

The Grantee shall complete and submit a revised management and work plan, deliverables outcomes and budget within 60 calendar days after the effective date of the grant. These revisions shall update the general/basic plan submitted with the proposal and include any changes to the proposed work plan, budget, performance measures and deliverables, negotiated between HUD and the grantee. These revisions should be developed according to the instructions provided by the HUD Government Technical Representative identified on the form HUD-1044. Should you not address these specific issues, your grant may be terminated on the basis of failure to conclude negotiations or to provide HUD with requested information, in accordance with the General Section of the NOFA for which you applied.

### 2. Purpose

The purpose of this *Agreement* is as stated in the "Purpose of the Program" section of the NOFA.

### 3. Definitions

- a. "Cooperative Agreement" means an agreement in which the Federal Government provides funding authorized by public statute where the government plays a substantial role in assisting the funding recipient.
- b. "Equipment" means a tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.
- c. "DUNS" means Dun and Bradstreet Data Universal Numbering System.

- d. “Grant Officer (GO)” means the HUD individual who is responsible for processing and executing grant award, change in key personnel, change of scope, budget transfers, change of period of performance, and other administrative changes that would require a modification to the agreement. This term also refers to designated HUD Officials authorized to execute and/or administer this grant.
- e. “Government Technical Representative (GTR)” means the HUD individual who is responsible for the technical administration of the grant, the evaluation of performance under the grant, the acceptance of technical reports or projects, and other such specific responsibilities as may be stipulated in the grant.
- f. “Government Technical Monitor (GTM)” means the individual responsible for assisting a Government Technical Representative (GTR) in the latter's performance of his/her duties. The GTM is also the responsible individual that will comply with the Office of Sustainable Housing and Communities devolution of authority under our Continuity of Operations Plan (COOP). Should the National Capital Region become non-operational due to emergency conditions, the approval of vouchers and the authority to pay vouchers will transfer to the GTM until such time as the designation is lifted. The Government Technical Representative (GTR) will continue to be the point of contact for day-to-day management issues and responsibilities described above. In a state of emergency, HUD reserves the right to designate a GTR for COOP purposes.
- g. “Grantee” as used herein refers to the recipient of this cooperative agreement.
- h. “NOFA” means the Notice of Funding Availability, which announced the availability of funding for this grant.
- i. “NOPI” means Notice of Public Interest
- j. “OSHC” means the HUD Office of Sustainable Housing and Communities, or its successor Office, if any.
- k. “Publication” includes:
  - (1) Any document containing information for public consumption; or
  - (2) The act of, or any act which may result in, disclosing information to the public.
- l. “Recipient” Any entity other than an individual that received grant funds in the form of a grant, cooperative agreement or loan directly from the Federal government.

m. “Subaward” means:

(1) A legal instrument to provide support for the performance of any portion of the substantive project or program for which the recipient received this award and that:

(a) The recipient awards to an eligible sub-recipient; or

(b) The sub-recipient at one tier awards to a sub-recipient at the next lower tier.

(2) The term does not include the recipient’s procurement of property and services needed to carry out the project or program (see, generally, §\_.210 of the attachment to OMB Circular A-133 (2 CFR Part 180), “Audits of States, Local Governments, and Non-Profit Organizations”).

(3) A subaward may be provided through any legal agreement, including an agreement that the recipient or a sub-recipient considers a contract.

n. “Sub-recipient” means a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary to such a program. The sub-recipient may also be a recipient of other Federal awards directly from the Federal awarding agency. Guidance on distinguishing between a sub-recipient and a vendor is provided in §\_\_.210 of OMB Circular A-133 (2 CFR Part 180).

o. “Total Instrument Amount” is the amount under line item 14 of the HUD Form-1044 (Total Instrument Amount). This is the sum of the federal award and grantee match.

p. “Work Plan” refers to the Grantee’s plan for addressing a specific service delivery need, and consists of designated work activities including tasks and subtasks as required by the program office; a timeline for completing the work; performance measures; outputs and outcomes identified to achieve the performance measures/goals; budget; and resources designated to complete the work.

## **B. PROGRAM REQUIREMENTS**

### **1. Allowable Costs**

a. This is a cost reimbursement award; the Grantee shall be reimbursed for certain costs, as described below, incurred in the performance of work in an amount not to exceed the obligated amount shown in block 15 on the Assistance Award Form (form HUD-1044). In the event the Grantee incurs costs in excess of the prescribed amount, the excess shall be borne entirely by the Grantee.

- b. HUD shall reimburse the Grantee for costs incurred in the performance of this award which are determined by the GTR and the Grant Officer to be allowable, allocable, and reasonable in accordance with applicable Federal cost principles as follows:

Cost Principles for State, Local, and Indian Tribal Governments	OMB Circular A-87	Relocated to 2 CFR, Part 225; <a href="http://www.whitehouse.gov/omb/circulars/a087/a87_2004.html">http://www.whitehouse.gov/omb/circulars/a087/a87_2004.html</a>
Cost Principles for Non-profit Organizations	OMB Circular A-122	Relocated to 2 CFR, Part 230; <a href="http://www.whitehouse.gov/omb/fedreg/2005/083105_a122.pdf">http://www.whitehouse.gov/omb/fedreg/2005/083105_a122.pdf</a>
Cost Principles for Educational Institutions	OMB Circular A-21	Relocated to 2 CFR, Part 220; <a href="http://www.whitehouse.gov/omb/fedreg/2005/083105_a21.pdf">http://www.whitehouse.gov/omb/fedreg/2005/083105_a21.pdf</a>
Audits of States, Local Governments, and Non-Profit Organizations	OMB Circular A-133	Relocated to 2 CFR Part 180; <a href="http://www.whitehouse.gov/omb/fedreg/2005/083105_a133.pdf">http://www.whitehouse.gov/omb/fedreg/2005/083105_a133.pdf</a>
Cost Principles for Commercial/For-profits	Federal Acquisition Regulations at 48 CFR Part 31.2	<a href="http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200948">http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200948</a>

- c. Direct Costs are the allocable portion of allowable costs incurred directly for the purposes of the grant. Detailed explanations of direct costs are provided in applicable OMB Circulars (A-21 (2 CFR Part 220), Cost Principles for Educational Institutions, A-87 (2 CFR Part 225), Cost Principles for State, Local, and Indian Tribal Governments, or A-122 (2 CFR Part 230), Cost Principles for Nonprofit Organizations, as applicable) that can be accessed at the White House website, [www.whitehouse.gov/omb/circulars\\_default](http://www.whitehouse.gov/omb/circulars_default)

**2. Administrative Requirements**

The grantee must adhere to all respective uniform administrative rules for Federal grants and cooperative agreements and subawards as follows:

Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations	24 CFR Part 84	<a href="http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_36446.doc">http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_36446.doc</a>
Administrative Requirements for Grants	24 CFR Part 85	<a href="http://www.hud.gov/offices/lead/librar">www.hud.gov/offices/lead/librar</a>

and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments		<a href="#">y/lead/24_CFRPART_85.pdf</a>
Grants and Cooperative Agreements with State and Local Governments	OMB Circular A-102	<a href="http://www.whitehouse.gov/omb/circulars_a102">http://www.whitehouse.gov/omb/circulars_a102</a>
Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations	OMB Circular A-110 (Relocated to 2 CFR Part 215)	<a href="http://www.whitehouse.gov/omb/fedreg/2005/083105_a110.pdf">http://www.whitehouse.gov/omb/fedreg/2005/083105_a110.pdf</a>
Audits of States, Local Governments, and Non-Profit Organizations; and	OMB Circular A-133 (Relocated to 2 CFR Part 180),	<a href="http://www.whitehouse.gov/omb/fedreg/2005/083105_a133.pdf">http://www.whitehouse.gov/omb/fedreg/2005/083105_a133.pdf</a>

**3. Advance Payment By Treasury Check Or Electronic Funds Transfer**

Advance payments by Treasury check or electronic funds transfer are hereby authorized under this grant. A Grantee that is subject to existing State program accreditation requirements may request an advance payment in writing, if applicable. HUD may provide to the Grantee a one-time cash advance that shall not exceed 10 percent of the grant amount, and shall be limited to the minimum amount needed for the actual, immediate cash requirements of the Grantee in carrying out the start up activities of this agreement and as agreed to by the Grant Officer. Neither these HUD funds nor non-HUD funds may be used for conducting interventions, remediation, rehabilitation, renovation or other activities that would physically alter any structure or property in any way. Refer to 24 CFR 58.34(a) for a list of exempt activities.

**4. Amendments**

This grant may be modified at any time by written amendment. Amendments, which reflect the rights and obligations of either party, shall be executed by both HUD (the Grant Officer) and the Grantee. Administrative amendments, such as changes in appropriation data, may be issued unilaterally by the Grant Officer.

**5. Amount of Cost Share (Estimated Cost And Payment – Leveraging) (See Block 14 of form HUD-1044)**

The estimated cost for the performance of this grant is the “**Total Instrument Amount**”.

The Grantee shall be reimbursed by HUD for costs incurred in the performance of this grant. HUD shall not be obligated to reimburse the Grantee in excess of the “**Total HUD Amount**”. HUD reserves the right to withhold five-percent (5%) of the Federal grant amount pending the receipt and approval of a final progress report. See clause entitled “Final Report” for

more information. The proposed contribution to supplement HUD funds is the “Recipient Amount.” The Grantee agrees to bear without reimbursement by HUD the “**Recipient Amount**” of the total costs. The Grantee is not obligated to contribute more than the “**Recipient Amount**”. However, the Grantee shall be solely responsible for any costs in excess of the estimated cost of the “**Total Instrument Amount**”.

The Grantee must satisfy all leveraging requirements in the NOFA. If the Grantee's actual leveraging contribution is less than “**Recipient Amount**” under Block 14 of the HUD 1044, the Government reserves the right to negotiate new line items and/or amounts to satisfy the Grantee's leveraged funds requirement, or to reduce the Government's share proportionally. The Grantee shall notify the Government at any time it believes it will not meet its leveraged funds requirement by the completion of the grant. If the Grantee exceeds the leveraged amount, there will be no impact on the Federal share. HUD reserves the right to withhold payments if leveraged funds are not spent.

Any funds requested by the Grantee shall be requested in accordance with the clause entitled, “Estimated Cost and Payment - Line Of Credit Control System (LOCCS).”

HUD reserves the right to withhold payment if leveraged resources are not spent.

## **6. Budget**

The Grantee shall incur costs in conformance with the original or negotiated budget, presented with the proposal for this grant. The Grantee shall not commingle any funds computed under this grant with any other existing or future operating accounts held by the Grantee.

If the Grantee has been contacted to submit documents to support the application that were not received prior to the execution of this grant, the Grantee will not be allowed to draw down funds in excess of 10% of the federal amount, until such time that the requirements have been met. HUD reserves the right to terminate an award if the required documents are not provided within 1 month from the date the written request was made.

Standard Form 425, Federal Financial Report (24 CFR Part 84.52 and/or 85.52), detailing leveraged funds or in-kind contributions shall be submitted on a bi-annual basis. As part of the closeout process a final narrative and a final Standard Form 425 detailing the progress made in achieving the purpose of the grant and adequate documentation of the total federal funds expended in support of the activities to achieve this purpose are due to the GTR 90 days after the end of the period of performance (See clause entitled “Closeout”).

The Federal Financial Report (Standard Form 425) shall be submitted on a bi-annual basis and is due 30 days after the reporting period.

## **7. Central Contractor Registration (CCR)**

Recipients and their first-tier sub-recipients must maintain current registrations in the Central Contractor Registration ([www.ccr.gov](http://www.ccr.gov)) at all times during which they have active federal awards.

## **8. Certifications and Assurances**

The certifications and assurances submitted in the Grantee's application are hereby incorporated into this agreement. They include:

- a. Standard Form 424 or HUD 424, Application for Federal Assistance
- b. Certification and Disclosure Form Regarding Lobbying (SF-LLL)
- c. Applicant/Recipient Disclosure Update Report (HUD-2880)
- d. Certification Regarding Parties Excluded From Procurements
- e. Certification Prohibiting Excessive Force Against Non-Violent Civil Rights Demonstrators
- f. Certification/Disclosure Regarding federal Debt
- g. Certification Regarding a Drug-Free Workplace
- h. Codes of Conduct and Conflict of Interest

A grantee must notify the GTR of any changes in the status or information on the above items.

## **9. Changes**

In accordance with 24 CFR 85.30 or 84.25, as applicable, Grantees or sub-grantees must obtain the prior approval of the awarding agency whenever any programmatic changes are anticipated, including but not limited to the following:

- a) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).
- b) Budget revisions that are 10% or more of the total HUD amount among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed 10% of the current total approved budget, whenever the awarding agency's share exceeds \$100,000.
- c) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.
- d) Under non-construction projects, contracting out, subgranting (if authorized by law) or otherwise obtaining the services of a third party to perform activities, which are central to the purposes of the award.

## **10. Closeout**

The Grantee shall provide the Grant Officer with closeout documentation 90 days after to the end of the performance period, consisting of the following five elements:

- Narrative Final Report summarizing activities conducted under the award, including significant outcomes resulting from the activities and problems encountered during the performance period;
- Federal Financial Report (SF-425) of the total Federal Funds expended;
- Completed Inventions, Patents, and Copyright Statement; and
- Completed Closeout Certification.

HUD will notify the Grantee in writing when the grant is closed. The Grantee has three areas of continuing responsibility after closeout of the grant:

- Records and materials must be kept in a safe place and be accessible to auditors and other government officials for three years after the grantee and all subgrantees/subcontractors make final payments and all other pending matters are closed. (If the grant is covered by 24 CFR Part 84, see related record retention requirements in 24 CFR 84.85(c)(2).) This requirement also extends to all subcontracts the Grantee has executed.
- Accountability for property continues as long as the Grantee holds the property, or for the period of time established by the agreement. Disposal of property must be in accordance with the rules established in the Property Management Standards referred to in the award. Program income, including royalties, must be used to support eligible activities.
- Notification to the Grant Officer if, at any time during the three-year period after project completion, the Grantee organization is discontinued or changes location. The Grant Officer should be notified immediately of the new address or the address of the party retaining all records.

## **11. Collection Of Data**

Collection of data from ten or more respondents and sponsored by HUD shall be subject to the Paperwork Reduction Act (44 U.S.C. 3501— 3520). If a survey instrument for a collection of data sponsored by HUD is proposed, it will be subject to review and approval by the Office of Management and Budget (OMB). Such review and approval must be obtained prior to the use of the survey instrument. Also, a time element is involved here, which may considerably lengthen the time required for completion of the project proposed. Careful consideration should be given to any proposal, which requires the use of a survey or other information collection sponsored by HUD. The collection of data is deemed to be sponsored by HUD only under the following conditions (5 CFR 1320.3):

- a) The Grantee is conducting the collection of information at the specific request of HUD; or

- b) The terms and conditions of the grant require specific approval by HUD of the collection of information or collection procedures. Note that if the Grantee decides on its own to collect information and it does not need HUD approval to do so, then HUD is not the “sponsor” of the information collection.

## **12. Compliance with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282) (Transparency Act)**

Applicants receiving an award from HUD should be aware of the requirements of the Transparency Act. The Transparency Act requires the establishment of a central website that makes information available to the public regarding entities receiving federal financial assistance, by not later than January 1, 2008. In fulfillment of the requirements of the Act, OMB launched <http://www.USAspending.gov> in December 2007. The website makes information available to the public on the direct awards made by the federal government. The Transparency Act also requires, beginning not later than January 2009, that data on subawards be made available on the same website.

In anticipation of the implementation of this requirement, HUD is placing awardees of its FY2010 competitive funding on notice of these requirements and that, once implemented, grantees will be required to report their subaward data to HUD or a central federal database. The only exceptions to this requirement under the Transparency Act are:

- 1) Federal transactions below \$25,000;
- 2) Credit card transactions prior to October 1, 2008;
- 3) Awards to entities that demonstrate to the Director of OMB that the gross income of such entity from all sources did not exceed \$300,000 in the previous tax year of such entity; and
- 4) Awards to individuals. Guidance for receiving an exception under item (3) above has not been finalized by OMB.

HUD is responsible for placing award information for direct grantees on the government website. The reporting of subaward data is the responsibility of the grantee. Grantees should be aware that the law requires the information provided on the federal website to include the following elements related to all subaward transactions, except as noted above:

- 1) The name of the entity receiving the award;
- 2) The amount of the award;
- 3) Information on the award, including the transaction type, funding agency, the North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number (where applicable), program source, and an award title descriptive of the purpose of each funding action;
- 4) The location of the entity receiving the award and primary location of performance under the award, including the city, state, congressional district, and country;

- 5) A unique identifier of the entity receiving the award and of the parent entity of the recipient (the DUNS number), should the entity be owned by another entity; and
- 6) Any other relevant information specified by OMB.

### **13. Conduct of Work**

During the effective period of this grant, the GTR and/or the GTM identified in Block 9 of the HUD-1044 shall be responsible for monitoring the technical effort of the Grantee, unless the Grantee is notified in writing by the Grant Officer of a replacement.

Only the Grant Officer has the authority to authorize deviations from this grant, including deviations from the Work Plan. In the event the Grantee does deviate without written approval of the Grant Officer, such deviation shall be at the risk of, and any costs related thereto shall be borne by, the Grantee.

### **14. Confidentiality**

The service provider (e.g., the Grantee and any subgrantees, subcontractors or vendors) must maintain confidential files on individual program beneficiaries served. Recipient staff must keep paper files in a locked filing cabinet and protect all electronic files related to individual beneficiaries with a personal password.

The service providers shall maintain primary access to individual beneficiary files. Other project management staff may have access to these files only if they contain a “release of information” consent form signed by the individual beneficiary. A release of information form must clearly indicate which parties may have access to an individual beneficiary’s file. Such parties might include the management staff and HUD staff. Recipient staff must only share individual beneficiary files with those parties listed on the signed form. If an individual beneficiary has not signed the consent form the parties listed may not read that individual beneficiary’s file.

These categories serve as guidelines to recipient staff and management staff. The recipient must determine if the individual beneficiary’s confidential information will significantly affect the safety and security of that individual or the recipient organization itself.

### **15. Contact Information Updates**

The Grantee shall inform the Grant Officer and GTR of any changes in contact information, including the organization’s name, address, telephone, e-mail, and key personnel.

### **16. Copyrights**

HUD reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for Federal government purposes: (a) the copyright in any work developed under this award, sub-award, or contract awarded under this

grant; and (b) any rights of copyright to which a Grantee or sub-grantee or a contractor purchases ownership with award funds.

### **17. Default and Disputes**

The Grantee is in default if one or more of the following occurs:

1. Any use of award agreement funds for a purpose other than as authorized by this Agreement;
2. Any material noncompliance with Federal, State, or local laws or regulations as determined by HUD;
3. Any other material breach of this award agreement, or
4. Any misrepresentation in the application submissions which, if known to HUD, would have resulted in this award not being provided.
5. Failure to meet any reporting requirement.

If HUD determines preliminarily that the recipient is in default as described in items 1-5, above, HUD will give the recipient notice of this determination and the corrective or remedial action proposed by HUD. The recipient shall have an opportunity to demonstrate, within the time prescribed by HUD (not to exceed 30 days from the date of the notice), and on the basis of facts and data, that it is not in default, or that the proposed corrective or remedial action is inappropriate, before HUD implements the corrective or remedial action.

Where HUD determines that corrective or remedial actions by the recipient have not been undertaken as instructed, or will not be effective to correct the default and to prevent further default, HUD may take the following additional corrective and remedial actions under this award agreement:

1. Reduce the award in the amount affected by the default.
2. Take action against the recipient under 24 CFR Part 24 and Executive Order 12549 with respect to future HUD or Federal grant awards.
3. Demand repayment of all award amounts.
4. Initiate litigation or other legal proceedings designed to require compliance with the statute, regulations, any terms or conditions of this award agreement, or other pertinent authorities.
5. Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee.
6. Withhold further payments.
7. Take any other remedial action legally available.

During performance of the grant, disagreements may arise between the Grantee and the Grant Officer on various issues. If a dispute concerning a question of fact arises, the Grant Officer shall prepare a final decision, taking into account all facts and documentation presented. The decision shall be mailed to the Grantee. The Grantee may appeal the decision in writing within thirty (30) days to the Deputy Secretary of HUD, or his or her designated representative,

the Director, Office of Sustainable Housing and Communities.

Failure to comply with the requirements established in the award and these provisions, including failure to submit reports on time and in accordance with the requirements contained in these provisions, may result in HUD taking action to limit access to program funds. Actions by HUD may include, but are not limited to: requiring that reports and financial statements be submitted to the Grant Officer/GTR for approval before drawing down any funds; removing the Grantee from the eLOCCS; suspending the ability to incur costs or draw funds; and/or suspending or terminating the Grant for non-performance.

HUD may, on reasonable notice to the Grantee, temporarily suspend the award and withhold further payments pending corrective action by the Grantee. The award may be terminated in whole or in part before the end of the performance period for cause when the Grantee has failed to comply with the terms, conditions, standards, or provisions of this award. The award may be terminated for convenience when both parties agree that the continuation of the award would not produce beneficial results.

### **18. Deliverable Products**

During the performance period, the recipient is required to submit to the GTR Official Work Products. These include but are not limited to progress reports; financial reports, closeout documentation; products specified in the Work Plans, such as reports for HUD and the public on activities conducted and results achieved, etc. Failure to submit required documents on time may cause the Grant Officer to take action to suspend or terminate the award.

### **19. Equipment**

When acquiring equipment, the Grantee shall comply with the requirements set forth in 24 CFR 84.34 or 24 CFR 85.32, whichever is applicable, OMB Circular A-87 (2 CFR Part 225), and OMB Circular A-122 (2 CFR Part 230).

### **20. Estimated Cost and Payment - Line Of Credit Control System (LOCCS/eLOCCS)**

The Grantee shall be reimbursed for costs incurred in the performance of work under this grant in an amount not-to-exceed “**Total HUD Amount**” in Block 14 of the HUD 1044. In the event the Grantee incurs cost in excess of this amount, the excess shall be borne entirely by the Grantee.

Incurred costs shall be reimbursed through HUD's Line of Credit Control System (LOCCS) using the eLOCCS web based system. Each day LOCCS generates a payment tape for the Department of the Treasury, which disburses the payments via the Automated Clearinghouse (ACH) Payment System and a Voucher and Schedule of Payments. All payments are certified by HUD and forwarded to Treasury for processing.

Before receiving funds from the eLOCCS, the Grantee must designate a financial institution for HUD to make direct deposit payments through the ACH system. In the event the Grantee, during the performance of this grant, elects to designate a different financial institution for the receipt of any payments, notification of such change and the related information must be received by the Grant Officer 30 days prior to the date such change is to become effective.

To have access to LOCCS and the eLOCCS, the Grantee shall obtain a Security ID and Password from HUD's LOCCS Security Officer, using the form HUD-27054, LOCCS Voice Response /eLOCCS Access Authorization Form.

The Grantee shall submit the original vouchers for work performed to the GTR identified in Block 9 of the form HUD-1044. The voucher shall be supported by a detailed breakdown of the cost(s) claimed (Grantees are to use the Part 3 Financial Reporting Attachment included in Policy Guidance 2001-03). In order to assure proper payment, it is important that the voucher is in accordance with the payment amount requested through the eLOCCS. Payment requires the Grantee to go to eLOCCS and provide the Security ID number and requested information. Detailed instructions for using the LOCCS/eLOCCS were provided in HUD's Transmittal Letter for your award.

Funds advanced to the Grantee shall be maintained in an interest bearing account. Any interest earned by the Grantee as a result of the advanced funds shall be promptly returned to HUD.

All check remittances should be sent to the new Miscellaneous Lockbox as follows:

Bank of America  
DHUD P.O. Box 277303  
Atlanta, GA 30384-7303

If the Grantee is a State, local government or Indian Tribe, the Grantee may retain up to \$100.00 of interest earned per Grantee's fiscal year for administrative expenses (24 CFR 85.21).

If the Grantee is a University, non-profit or for profit organization, the Grantee may retain up to \$250.00 of interest earned per Grantee's fiscal year for administrative expenses (24 CFR 84.22).

State universities and hospitals shall comply with the Cash Management Improvement Act (CMIA), as it pertains to interest.

Other funds due to HUD after the end date of the grant or close-out, as a result of internal audit or other reasons, will be returned to the GTR identified in Block 9 of the form HUD-1044 of this grant.

Should the Grantee demonstrate an unwillingness or inability to establish procedures that will minimize the time elapsing between advances and disbursements, or fail to provide any

required progress report in a timely manner, the authorization for advance payments may be revoked. The Grantee may then be required to finance the project with its own working capital and payment to the Grantee may be made by Treasury check to reimburse it for actual cash disbursements that are approved by the GTR.

## **21. Environmental Review**

This Environmental Review section applies to grantees that will conduct site control or land acquisition (Category 2- Detailed Execution Plans and Programs), as described in the NOFA.

Activities that involve site control or acquisition are subject to HUD environmental review under 24 CFR Part 50. For projects involving these activities, HUD's notification of award constituted only a preliminary approval by HUD subject to the completion of an environmental review of the proposed site(s). Selection for participation and the execution of this Agreement do not constitute approval of the proposed site(s). Each proposal involving site control or acquisition is subject to a HUD environmental review, and the Grantee's proposal may be modified or the proposed sites rejected as a result of that review.

The Grantee shall not acquire, rehabilitate, demolish, convert, lease, repair, or construct property, nor commit or expend HUD or local funds for these program activities with respect to any eligible property, until HUD approval of the property is received. An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by HUD on the desirability of the property for the project as a result of the completion of the HUD environmental review and the cost of the option is a nominal portion of the purchase price.

The Grantee shall assist HUD in complying with 24 CFR Part 50; shall supply HUD with all available, relevant information necessary for HUD to perform an environmental review for each property, as requested by HUD; and, shall carry out mitigating measures required by HUD or select alternate eligible property if required by HUD..

## **22. Fair Housing and Civil Rights Laws**

- a) The Grantee represents, warrants, and certifies to HUD that it shall comply with all applicable Federal statutes, regulations, and requirements relating to non-discrimination and equal opportunity identified in HUD's regulations at 24 CFR § 5.105(a), and assure such compliance of any of its sub-grantees under this Agreement, including the following:
  1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d-2000d-4) and implementing regulations at 24 CFR part 1, Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development - Effectuation of Title VI of the Civil Rights Act of 1964;

2. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681:1683, 1685:1688) and implementing regulations at 24 CFR part 3, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance;
  3. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations at 24 CFR part 8, Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development;
  4. Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*) and implementing regulations at 28 CFR part 35;
  5. The Fair Housing Act (42 U.S.C. §§ 3601-19) and implementing regulations at 24 CFR Part 100, Discriminatory Conduct Under the Fair Housing Act;
  6. Executive Order 11063, as amended by Executive Order 12259, and implementing regulations at 24 CFR part 107, Nondiscrimination and Equal Opportunity in Housing Under Executive Order 11063; and
  7. The Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-6107) and implementing regulations at 24 CFR part 146, Nondiscrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance.
- b) The Grantee represents, warrants, and certifies to HUD that it shall administer its grant in a manner that affirmatively furthers fair housing and that, at a minimum, it shall carry out all actions to affirmatively further fair housing as proposed in its application for financial assistance under the Sustainable Communities Initiative Grant Programs.
- c) The Grantee represents, warrants, and certifies to HUD that it shall ensure that employment, contracting, and other economic opportunities generated by the Sustainable Communities Initiative Grant Programs shall, to the greatest extent feasible, be directed to low- and very low-income persons pursuant to Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and HUD's implementing regulations at 24 CFR part 135.
- d) Grantees are required to cooperate and assist HUD in its nondiscrimination and equal opportunity compliance activities and are required to maintain and submit racial, ethnic, disability, and other demographic data pursuant to HUD's nondiscrimination and equal opportunity regulations including those at 24 CFR §§ 1.6, 8.55, 107.30, and 121.2.

### **23. Flow Down Provisions**

If the Grantee contracts or subawards funds under this agreement with a person or entity to perform work under this award, the Grantee shall include in the contract or subaward agreement such provisions as may be necessary to ensure that all contractors and subgrantees comply with the requirements of the grant and reporting provisions as set forth in these terms and conditions or as established by HUD and the Office of Management and Budget (OMB)

The Terms and Conditions of this agreement flow down to all tiers of subgrantees. First tier subgrantees are required to obtain a DUNS numbers (or update its existing DUNS record), and register with the Central Contractor Registration (CCR; [www.ccr.gov](http://www.ccr.gov)) no later than 120 days after execution of this agreement.

### **24. HUD's Right to Audit and Disallow and Recover Funds**

The government reserves the right to seek recovery of any funds that were not expended in accordance with the requirements or conditions of this agreement based upon HUD review, the final audit, or any other special audits or reviews undertaken. HUD has the right to order a special audit, even if the Grantee's auditor or a cognizant agency has already conducted one.

### **25. HUD's SUBSTANTIAL INVOLVEMENT**

HUD's Office of Sustainable Housing and Communities will work in partnership with its grantees to advance the program objectives of the grant program. The Cooperative Agreement allows for substantial involvement of HUD staff to enhance the performance of the grantee in the completion of their deliverables.

Anticipated substantial involvement by HUD staff may include, but will not be limited to:  
Studies and Reports

- Review potential amendment recommendations to the study design and/or Workplan.
- Review and provide recommendations in response to bi-annual progress reports (e.g., amendments to study design based on preliminary results).
- Review and provide recommendations on the final report/study, including final interpretation of study results.

Approvals and Reviews

- Authority to halt activity if specifications or work statements are not met;
- Review and approval of one stage of work before another can begin;
- Review and approval of substantive provisions of proposed sub-grants or contracts beyond existing Federal policy;
- Approval of workplan adjustments based on changing conditions and needs documented in the cohort targeted for capacity building.
- Review and approval of key personnel

Participation and Monitoring

- Monitoring to permit specified kinds of direction or redirection of the work because of interrelationships with other projects;
- HUD and recipient collaboration or joint participation;
- Implementing HUD requirements which limit recipient discretion;
- Coordination of complementary activities from respective capacity building intermediaries, including determining if workplans require adjustments based on changing conditions;
- Where appropriate substantial, direct HUD operational involvement or participation during the assisted activity.

## **26. Incurrence of Costs**

The Grantee is allowed to incur costs for activities beginning the effective date of the award as stated on the HUD-1044 under period of performance. Any costs incurred before the date are not allowable unless specifically authorized in writing by the Grant Officer or GTR.

At a minimum, grantees are required to drawdown funds on a quarterly basis. An e-LOCCS Request Voucher for Grant Payment (HUD form 27053) must be used to be reimbursed for award funds. Any funds requested by the Grantee shall be requested in accordance with the clause entitled, "Estimated Cost and Payment - Line of Credit Control System (LOCCS)."

## **27. Indirect Costs**

For grantees without a federally approved indirect cost rate, a provisional indirect cost rate, pending establishment of a final rate, will be applied to this grant. Reimbursement will be made on the basis of the provisional rate. By accepting this agreement, the Grantee agrees to bill at the provisional indirect cost rate until an approved indirect rate agreement becomes effective. Adjustments will be made from the provisional rate to the final rate. However, such adjustments must be within the total amount of the award as stated in Block #15 of the HUD-1044.

## **28. Inspection and Acceptance**

Inspection, review, correction, and acceptance of all deliverables under this award shall be the responsibility of the GTR. The GTR may receive recommendations from assigned GTMs.

## **29. Inspector General Referrals**

The Grantee or any subgrantee, subcontractor or other sub-recipient awarded funds shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

## **30. Limitation on Consultant Payments**

Per the requirements of the NOFA, federal funds may not be used to pay or to provide reimbursement for payment of the salary of a consultant, whether retained by the federal Government or the Grantee, at a rate more than the equivalent of General Schedule 15, Step 10 base pay rate. See the Office of Personnel Management Website, [www.opm.gov](http://www.opm.gov), and its Salaries and Wages link for the current base rate, which may be lower than the local rate.

### **31. Limitation on Payments to Influence Certain Federal Transactions**

Section 1352 of Title 31 of the U.S. Code provides in part that 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.

### **32. Lobbying Activities Prohibition**

The Grantee is subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment), implemented in HUD regulations at 24 CFR Part 87 and to the provisions of the Lobbying Disclosure Act of 1995, P.L. 104-65 (December 19, 1995).

### **33. Management and Work Plan**

The management and work plan, deliverables and budget revisions shall comply with the requirements established by the NOFA. The Grantee shall complete and submit a detailed management and work plan within 60 days after the effective date of the grant; this plan is subject to review and approval by HUD. The revisions to the general plan submitted in the proposal shall include any negotiated changes of the work plan or budget if applicable. The plan shall be developed according to the instructions that will be provided by the GTR.

The management and work plan consist of the goals and time-phased objectives and deliverables for each of the major tasks to be undertaken by the program. A revised budget, in accordance with the final negotiation, shall be submitted (if necessary).

### **34. Monitoring**

The responsible Departmental official, GTR, or designee may review and monitor the practices of the Grantee to determine whether it is in compliance with this Agreement or other requirements that arise as a result of the Grant Award. The GTR will also provide performance monitoring by tracking Grantee's progress in meeting the goals and objectives of the program.

**35. Order of Precedence**

In the event of any inconsistency among any provisions of this grant, the following order of precedence shall apply:

- a) HUD 1044 Cooperative Agreement
- b) NOFA
- c) Management and Work Plan.
- d) Uniform Administrative Requirements.
- e) Grantee's Proposal (if incorporated)

**36. Patent Rights (Small Business Firms And Nonprofit Organizations)**

Patent rights are as specified in 37 CFR Part 401, entitled "Rights to Inventions made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements." Inquiries regarding this Patent Rights clause should be in writing and directed to:

Grant Officer  
Office of Sustainable Housing and Communities  
U.S. Department of Housing and Urban Development  
451 Seventh Street SW, Room 10180  
Washington, DC 20410-3000

**37. Period of Performance and Extensions and Incurring Costs or Obligor Federal Funds Beyond the Expiration Date**

a) The Grantee shall provide all services stipulated in this cooperative agreement for the period of months specified in the form HUD 1044, "Assistance Award/Amendment," or its Continuation Sheet, from the effective date stipulated in Block #5 of the HUD 1044. Grantees are to comply with the requirements of 24 CFR 84.28 or 24 CFR 85.23 (Period of availability of funds), as applicable, in charging costs to the grant. All obligations incurred under the award must be liquidated within the period of performance.

b) The Grantee shall not incur costs or obligate federal funds for any purpose pertaining to the operation of the project or program, 30 days prior to the end of the period of performance. The only costs which are authorized during the last 30 days of the period of performance are those strictly associated with closeout activities. Closeout activities are normally limited to the preparation of final progress, financial, and required project audit reports unless otherwise approved in writing by the Grant Officer.

The Office of Sustainable Housing and Communities has no obligation to provide any additional prospective funding. Any amendment of the award to increase funding is at the sole discretion of that Office.

**38. Personnel**

The personnel, specified as key personnel in the original or amended HUD form 2010 (Rating Factor Form), Factor 1, Capacity of the Applicant and Relevant Organizational Experience, are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other work, the Grantee shall notify the Grant Officer and GTR reasonably in advance in writing and shall submit justification (including proposed substitutions (with the qualifications and experience of the substitute personnel)) in sufficient detail to permit evaluation of the impact on the work effort. No diversion shall be made by the Grantee without the written consent of the Grant Officer.

**39. Profit/Fee**

No increment above cost, fee, or profit may be paid to the Grantee or any subgrantee under this award.

**40. Program Income**

Any program income derived as a result of this award shall be added to funds committed under the award to further activities eligible for assistance under this agreement. If not contained in the Work Plan or under Special Conditions itemized in these provisions, prior to using program income to further the objectives of the grant program, the parties shall mutually agree by written amendment on the use of program income. Program income received after the period of performance must be used to further the objectives of the applicable grant program for which this grant is awarded in accordance with 24 CFR 84.24 or 85.25, as applicable.

**41. Prohibited Use of Funds**

You may not use funds for the following ineligible activities:

- (a) Ineligible administrative activities under OMB Circular A-102 (24 CFR Part 85), Grants and Cooperative Agreements with States and Local Governments; OMB Circular A-110 (2 CFR Part 215) Uniform Administrative Requirements for Grants and Cooperative Agreement with Institutions of Higher Education, Hospitals and other Non-Profit Organizations;
- (b) Ineligible costs under OMB Circular A-87 (2 CFR Part 225), Cost Principles for State and Local and Indian Tribal Governments; and OMB Circular A-122 (2 CFR Part 230), Cost Principles for Non-Profit Organizations;
- (c) Developing plans that would assist business or industry to relocate to an area to the detriment of communities where the business or industry is currently located. This funding restriction does not apply to businesses that are displaced as a result of Category 2 projects. The requirements of the Uniform Relocation Assistance and Real

Property Acquisition Policies Act of 1970 (42 U.S.C. 4601) (codified at 49 CFR Part 24) cover any person who moves permanently from real property or moves personal property from real property as a result of direct acquisition, rehabilitation, or demolition for a program or project receiving HUD assistance (See the General Section).

- (d) Substitution of Sustainable Communities funds for funding already pledged to support community development; housing; watershed, air and water quality; transportation planning; food production and distribution planning; and other planning activities eligible under the sustainable communities planning program.

#### **42. Publications and News Releases and Social Media**

The results of work conducted under the award may be made available to the public through dedication, assignment by HUD, or other means, as HUD shall determine.

All interim and final reports and any other specified deliverables shall be owned by the government and held for the benefit of the public which shall include Grantee and Grantee's sub-recipients.

Interim and final reports (including, if applicable, scientific manuscripts) may not be published by the Grantee or any sub-recipients participating in the work for a period of sixty days after acceptance of the deliverables by the GTR.

All deliverables, or any part thereof, and any independent products and special products arising from this award, when published by the Grantee or other participants in the work shall contain the following acknowledgment and disclaimer:

The work that provided the basis for this publication was supported by funding under an award with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Government."

Copies of all press releases, formal announcements, and other planned, written issuances containing news or information concerning work products or activities of this award that may be made by the Grantee or its staff, or any sub-grantee or other person or organization participating in the work of the award, shall, be provided to the GTR for review and comment before the planned release. Whenever possible, these should be provided to the GTR for review and comment at least two weeks before the planned release, but in no event simultaneously with the release.

The use of Social Media, such as web feeds, wikis, blogs, photo and video-sharing, podcasts, and microblogs is acceptable under OSHC grant programs. Information to be released

through Social Media must be provided to the GTR for review and comment at least 2 business days before the planned release.

### **43. Reporting**

#### **a) Deliverables**

The Grantee shall include a schedule listing all significant project milestones, and dates for submission of all project deliverables including biannual project reports, interim reports where appropriate, the final report, and financial reports utilizing Standard Form 425, the Federal Financial Report. Upon approval of the Work Plan, the Grantee should ensure all deliverables identified in the Work Plan are delivered on time.

#### **b) Bi-Annual Progress Reports**

A template to be used in the preparation of each biannual report will be provided by HUD after grant award. Bi-annual reports must reflect activities undertaken, obstacles encountered and solutions achieved, and accomplishments. Contracts, training materials and protocols, rosters of persons trained, outreach and educational materials prepared, and other significant products developed to implement, analyze or control the project or disseminate information are to be submitted with the biannual reports as attachments.

Grantees shall submit reports as specified in this clause. The reports submitted to HUD require the submission of a work plan with specific, time phased, and realistic goals, objectives established. Bi-annual status reports that show progress and measure performance of the program in meeting approved work plan goals, objectives are to be submitted.

Grantees are advised that failure to submit timely biannual progress reports will result in not having their “eLOCCS Request Voucher for Grant Payment” processed and also may result in a low performance rating, which could result in grant termination. Reports are due 30 days after the reporting period.

#### **c) Required Reports**

- Grantees are required to submit biannual progress reports. Reporting requirements are specified in the Notice of Funding Availability and these Terms and Conditions. In case of conflict, the more-stringent provisions apply.
- Economic Opportunities for Low- and Very Low-Income Persons (Section 3). The HUD Form 60002, Economic Opportunities for Low- and Very Low-Income Persons (Section 3) must be submitted by January 10th, and yearly thereafter.
- Federal Financial Report (Standard Form 425)

**d) Final Report**

A final report shall be submitted. The final report shall summarize the applicant's plans, execution of the plans, achievements noted, and lessons learned. The report need not be lengthy, but should be of a quality and detail to provide freestanding description to any outside reader of all of the applicant's work and achievement under the grant. See clause entitled "Closeout" for the specific elements to be included with your final report. Specific and detailed guidance on preparing the forms and the narratives may be obtained from the GTR.

**44. Reproduction of Reports****BRANCH PROCUREMENT OF CERTAIN KINDS OF PRINTING; "PRINTING" DEFINED**

Pub. L. 102-392, title II, Sec. 207(a), Oct. 6, 1992, 106 Stat. 1719, as amended by Pub. L. 103-283, title II, Sec. 207, July 22, 1994, 108 Stat. 1440; Pub. L. 104-201, div. A, title XI, Sec. 1112(e)(1), Sept. 23, 1996, 110 Stat. 2683, provided that:

- 1) None of the funds appropriated for any fiscal year may be obligated or expended by any entity of the executive branch for the procurement of any printing related to the production of Government publications (including printed forms), unless such procurement is by or through the Government Printing Office.
- 2) Paragraph (1) does not apply to (A) individual printing orders costing not more than \$1,000, if the work is not of a continuing or repetitive nature, and, as certified by the Public Printer, if the work is included in a class of work which cannot be provided more economically through the Government Printing Office, (B) printing for the Central Intelligence Agency, the Defense Intelligence Agency, National Imagery and Mapping Agency, or the National Security Agency, or (C) printing from other sources that is specifically authorized by law.

As used in this section, the term "printing" includes the processes of composition, platemaking, presswork, duplicating, silkscreen processes, binding, microform, and the end items of such processes.

**45. Review of Deliverables**

- a) Definition - For the purpose of this clause, "Deliverables" include:
  - 1) All interim and final reports;
  - 2) Survey instruments required by Work Plan, if applicable;
  - 3) Other physical materials and products produced directly under the Work Plan of this grant, if applicable; and
  - 4) In-kind and leverage commitments, if applicable.
- b) General

- 1) The GTR shall have the sole responsibility for HUD review, correction, and acceptance of the deliverables of this grant. Such review(s) shall be carried out promptly by the GTR, so as not to impede the work of the Grantee.
- 2) The Grantee shall carry out the required corrections, if any, provided by the GTR and shall promptly return a revised copy of the product to the GTR.
- 3) The basis for acceptance shall be the Grantee's good faith efforts to complete the deliverables of this grant.
- 4) The GTR's review, correction, and acceptance of deliverables shall be limited to: (i) corrections of omissions or errors of fact, methodology, or analysis; ii) deletion of irrelevant materials; and (iii) improvements in style readability.
- 5) In the review and acceptance of deliverables, the GTR may not require any change in the Grantee's stated views, opinions, or conclusions.
- 6) Should there be any disagreement between the Grantee and the GTR as to any correction, or the methodology or analysis on which any conclusion is based, the GTR may require the Grantee to insert a Government dissent(s) in the appropriate place(s). The inclusion of such dissent(s) in an Official Product of Work, otherwise found acceptable by GTR, and the return to the GTR of a revised copy containing the dissent(s), shall satisfy the requirements for acceptance of the Official Product of Work under this clause. Such dissent(s) shall not apply to any independent publication by the Grantee of Independent Products that may arise from the work or findings of this grant.

#### **46. Scope of Services**

The Grantee shall furnish the necessary personnel, materials, services, equipment, facilities (except as otherwise specified herein) and otherwise do all things necessary for or incidental to the performance of the work set forth in the original/revised application under the this NOFA, as well as the subsequent Management and Work Plan schedule.

#### **47. Section 508 Compliance**

Section 508 of the Rehabilitation Act of 1973 requires all Federal electronic and information technology to be accessible by people with disabilities. All Products of Work that will be posted on HUD's website must meet HUD's Web Publication Standards and Procedures at [www.hud.gov/assist/webpolicies.cfm](http://www.hud.gov/assist/webpolicies.cfm).

#### **48. Single Audit Transparency Transactions Listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Sub-recipients.**

a) Uniform Administrative Requirements for Grants and Agreements" and OMB A-102 (24 CFR Part 85) Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of funds.

b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133 (2 CFR Part 180), “Audits of States, Local Governments, and Non-Profit Organizations,” recipients agree to separately identify the expenditures for Federal awards on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133 (2 CFR Part 180).

c) Recipients agree to separately identify to each sub-recipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of funds.

d) Recipients agree to require their sub-recipients to include on their SEFA. This information is needed to allow the recipient to properly monitor sub-recipient expenditure of as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

#### **49. Special Conditions**

Special Conditions to this award are listed in the form HUD-1044 Continuation Sheets.

#### **50. Sub-recipient Monitoring and Management**

Recipients will be responsible for the monitoring and management of all sub-recipient awards. Management and reporting requirements applied to direct recipients tier-down to employees, affiliates, sub-recipients, and subcontractors, and recipients will be responsible for ensuring compliance and submitting required reports to HUD. Recipients may incorporate all sub-recipient reporting into a consolidated report with the exception of the requirements established for compliance with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282) also known as FFATA or the Transparency Act.

#### **51. Whistleblower Protection**

Each grantee or sub-grantee awarded funds made available shall promptly refer to the HUD Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. Complaints can be made to the HUD Office of Inspector General through any of the following means:

Calling toll-free at 1-800-347-3735; persons who have hearing or speech disabilities may reach this number from the Federal Relay Service, at 1-800-877-8339.

Faxing at (202) 708-4829

E-mailing to [hotline@hudoig.gov](mailto:hotline@hudoig.gov)

Writing to HUD OIG Hotline (GFI), 451 7th Street, SW, Washington, DC 20410