



COLORADO

Department of Transportation

DIVISION OF TRANSIT AND RAIL STATE MANAGEMENT PLAN

CHAPTER 4 Project Management

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4. PROJECT MANAGEMENT

4.1 Project Coordination/Oversight Program

Once an executed subaward agreement is in place, the Colorado Department of Transportation (CDOT)/Division of Transit and Rail (DTR) is responsible for oversight of the subrecipient agency and its implementation of the project. Oversight includes monitoring, training, and technical support for subrecipient agencies to support them in compliance with federal and state regulations and guidelines associated with receiving and disbursing funds.

When subrecipient agencies enter into contracts with contractors and subcontractors to perform work funded by the Federal Transit Administration (FTA) or state transit funds, the subrecipient agencies are responsible for oversight and compliance of the contractors and subcontractors with federal and state regulations and guidelines.

DTR utilizes the Comprehensive Review Guide, updated annually by the FTA, as a guide to conduct oversight. The most current Comprehensive Review Guide can be found through a link on **FTA's Program Oversight web page** (<https://www.transit.dot.gov/regulations-and-guidance/program-oversight/program-oversight>).

4.1.1 DTR Organization for Project Oversight

DTR Project Coordinators are responsible for overseeing subrecipients to determine their compliance with federal and state requirements, knowledge of programs, level of risk, timeliness and participation, operation levels, fiscal responsibility, and budget management practices.

Each DTR Project Coordinator is responsible for the primary oversight of transit agencies in an assigned region of Colorado made up of the CDOT Transportation Planning Regions (TPR), as shown on Figure 4.2 and Figure 1 in Chapter 1. Site Reviews, reimbursement requests, and other tasks are subject to team-based oversight if necessary. Project Coordinators are encouraged to be in the field interacting with their assigned subrecipients and participating in regional meetings when scheduling permits.

Northwest. Intermountain TPR, Northwest TPR

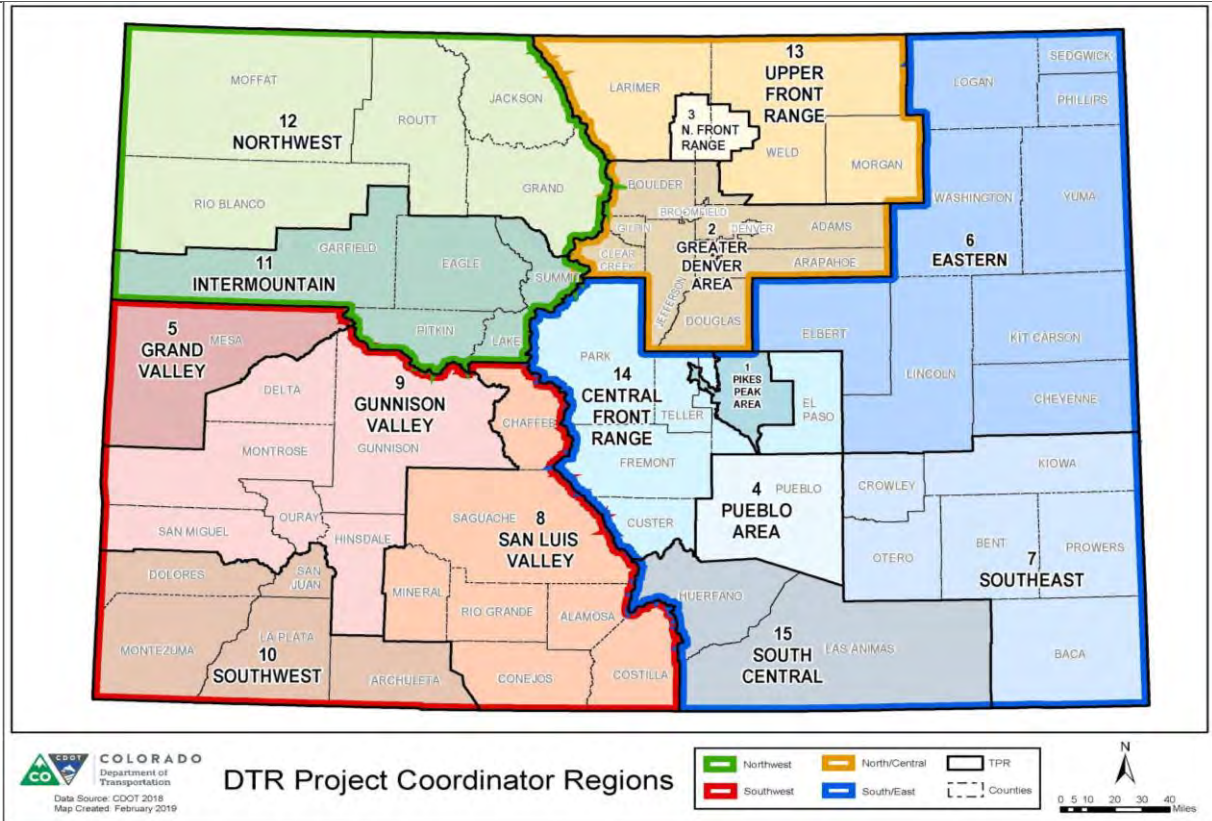
Southwest. San Luis Valley TPR, Gunnison Valley TPR, Southwest TPR, Grand Valley TPR

North/Central. Eight counties within the Denver Regional Council of Governments (DRCOG), North Front Range Metropolitan Planning Organization, and Upper Front Range TPR

South/East. Southeast TPR, South Central TPR, Eastern TPR, Pikes Peak Area Council of Governments (COG), Pueblo TPR, Central Front Range TPR

In addition, DTR's Bus Operations Unit oversees projects funded with FTA Section 5311(f) intercity bus funds or the Funding Advancement for Surface Transportation and Economic Recovery Act (FASTER) regional operating pool. Oversight responsibilities for facility and infrastructure construction projects can vary based on the type of project, but are often provided by CDOT Engineering Region staff, with support from DTR staff.

Figure 4.1. Project Coordinator Regions and TPRs



4.1.2 DTR Oversight Policy

As funding recipients, subrecipients are responsible for:

- Meeting the requirements for applying for appropriate funding.
- Having the technical capacity for managing and implementing the projects.
- Ensuring availability of the required match.
- Working with DTR to develop an appropriate statement of work.
- Contracting with DTR for the project.

- Meeting all subaward agreement requirements, including submitting Procurement Requests for CDOT approval in Colorado Transit & Rail Awards Management System (COTRAMS).
- Maintaining appropriate and accurate records.
- Submitting reports and invoices in a timely manner through COTRAMS.
- Closing a subaward in COTRAMS 15 days after the final invoice was approved by CDOT.
- Complying with all state and federal regulations pertaining to the award.

Each Project Coordinator tracks the project milestones to ensure that each project is adhering to the required schedule and terms of the contract or subaward agreement.

4.1.2.1 Baseline Activities

DTR Project Coordinators and subrecipients have responsibilities related to ongoing oversight and participating in oversight activities. Subrecipients are expected to participate in baseline activities, unless deemed not required by DTR. Baseline activities are outlined in Table 4.1.

Table 4.1. Baseline Activities

COTRAMS = Colorado Transit & Rail Awards Management System LCC = Local Coordinating Council RCC = Regional Coordinating Council RTAP = Rural Transit Assistance Program CASTA = Colorado Association of Transit Agencies		NTD = National Transit Database DTR = Division of Transit and Rail FTA = Federal Transit Administration TrAMS = Transit Award Management System	
	Activity	Subrecipient	DTR
Daily/Weekly	Customer Service and COTRAMS support		Assist subrecipients as requested
	Reimbursement Requests for Capital projects (COTRAMS)	Submit	Approve
Monthly	Transit Conference Calls	Participate and contribute	Prepare for and conduct
	Informal Site Reviews	Prepare for and participate	Schedule and conduct
	Reimbursement requests for Admin/Operating and Mobility Management projects (COTRAMS)	Submit	Review and approve
Quarterly	LCC and RCC meetings	Attend	Attend as needed
	RTAP and other training opportunities	Attend	Schedule and conduct
	CASTA committees	Participate and attend	Participate and attend
	Risk assessments (COTRAMS)	Complete	Complete
	Quarterly Reports (Section 5311 and Section 5311[f] recipients)*	Prepare	Review

Table 4.1. Baseline Activities

COTRAMS = Colorado Transit & Rail Awards Management System		NTD = National Transit Database	
LCC = Local Coordinating Council		DTR = Division of Transit and Rail	
RCC = Regional Coordinating Council		FTA = Federal Transit Administration	
RTAP = Rural Transit Assistance Program		TrAMS = Transit Award Management System	
CASTA = Colorado Association of Transit Agencies			
	Activity	Subrecipient	DTR
	Program Measures Reports (Section 5310 recipients)**	Prepare	Review
Annually (spring)	Transit Open Houses	Attend	Prepare for and conduct

*Quarterly Reports are designed to assist 5311 and 5311(f) subrecipients capture the service information quarterly that they are required to report annually in the NTD. Subrecipients that have active 5311 and 5311(f) projects must complete these reports in COTRAMS quarterly.

** Program Measures Reports are required from subrecipients that have active 5310 projects. These reports ask for updates on program performance: gaps in service filled and ridership. Subrecipients are encouraged to include a client story or success story, as these are important to share with the FTA. Subrecipients must complete these quarterly in COTRAMS; DTR then submits the reports to FTA using TrAMS.

4.1.2.2 Subrecipient Information Request and Site Review Process

All subrecipients are required complete the Subrecipient Information Request (SIR) and participate in the Site Review Process at least once as a new subrecipient, unless otherwise **decided by DTR management. The SIR is adapted from FTA's** current Comprehensive Review Guide (<https://www.transit.dot.gov/regulations-and-guidance/program-oversight/program-oversight>) that covers the range of requirements for all FTA programs in the following areas:

- Legal (Lobbying)
- Financial Management and Capacity
- Technical Capacity
- Satisfactory Continuing Control
- Maintenance
- Procurement
- Disadvantaged Business Enterprise (DBE)
- Title VI
- Americans with Disabilities Act (ADA) General
- Americans with Disabilities Act Complementary Paratransit
- Equal Opportunity Employer
- School Bus
- Charter Bus
- Drug and Alcohol Program

The SIR may be completed differently by agencies because some areas are only applicable to certain funding sources or for certain types of projects. The process is illustrated in Flowchart

4-1 Subrecipient Information Request (SIR) and Site Review Process and includes the following:

Pre-Review. Project Coordinators send notifications to the agencies scheduled to have a Site Review. The notification stating the purpose of the SIR according to **DTR's** risk assessment process described in Chapter 3 and Section 4.1.2.3 and **DTR's** SIR oversight policy. A site review date is agreed upon and scheduled. The subrecipient receives a SIR custom-created for the agency made up of questions for the subrecipient to answer and a request for copies of **the subrecipient's program documents. The notification includes a deadline to return the completed SIR and upload the requested documents to COTRAMS.**

Desk Review. Project Coordinators perform a Desk Review of the **subrecipient's SIR and documents**, and then complete an internal SIR document that captures their comments (and comments from the CRBRC review). Based on the review, the Project Coordinator develops questions, highlights areas of concern, and identifies additional areas for discussion, such as upcoming projects and needs. A detailed agenda for the Site Visit is sent to the subrecipient prior to the scheduled Site Visit.

Site Visit. The Site Visit view is typically a one-day meeting with facility and/or bus tours, as appropriate. The visits are an opportunity for the Project Coordinator and the subrecipient to review projects, help subrecipient reach compliance requirements, identify opportunities for improvement, answer questions, and identify future needs. Attendees include the agency executive staff, the Project Coordinator, and representatives from other CDOT/DTR programs, as needed (Transit Asset Management, Civil Rights, Audit, Business Office, Drug & Alcohol program, RTAP, CDOT Regional Planner, and others). Subrecipients are responsible for ensuring that pertinent staff members are available.

Site Visits begin with an entrance conference stating the purpose of the review and a **reminder that the informal "findings" are a reflection on CDOT's oversight.** Site Visits follow the pre-arranged agenda and leave ample time for the in-person checklist, especially checking maintenance records. A typical Site Visit checklist is included as Attachment 4-1 Subrecipient Information Request (SIR) and Site Review Checklist. The Site Visit ends with an exit conference to review the notes taken during the Site Visits and clarify any next steps.

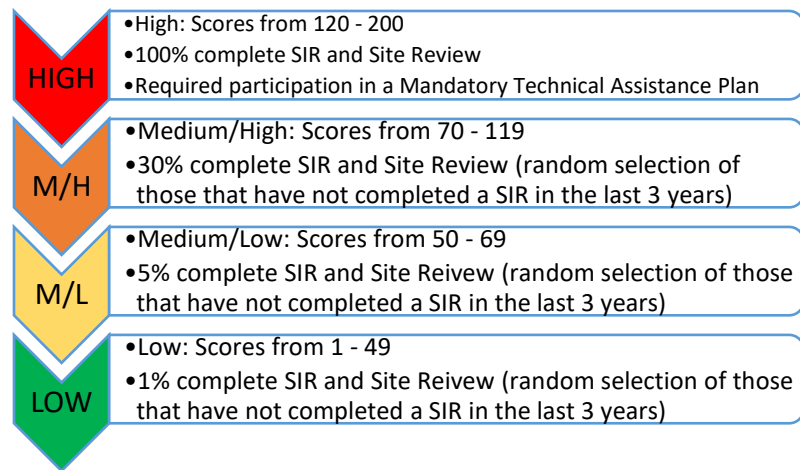
Post-Review: The Project Coordinator sends a follow-up letter declaring whether or not the subrecipient is in compliance; and documenting observations, recommendations, and conclusions. Follow-up actions required by the subrecipient are also identified, including, if needed, additional training and technical assistance or a corrective action plan with a timeline.

4.1.2.3 Frequency and Level of Oversight

After a **subrecipient's** initial SIR and Site Visit, the frequency and level of oversight are based on the results of the scores of the Risk Assessment completed by the subrecipient and DTR in COTRAMS after an award. The Risk Assessment process is described in Chapter 3 (Section 3.5.1). **DTR's objective is to provide** the appropriate level of oversight based on the risk assessment scores and the needs of the specific agency.

The combined numerical score from the Risk Assessment corresponds to High, Medium/High, Medium/Low, and Low level of oversight. DTR uses the Low to High ratings to determine how often a subrecipient is asked to complete the SIR and participate in a Site Review. The percentage of subrecipients at the different risk levels participating in the SIR and Site Review is illustrated in Figure 4.2.

Figure 4.2. Subrecipients Participating in SIR



Due to time constraints and the broad scope of federal and state requirements associated subrecipient oversight, DTR conducts the SIR and Site Review process as diligently as possible, given the allotted time and resources available and the desire to minimize disruption to subrecipient operations and activities.

It is not the intent to provide absolute assurance of compliance for every category of project administration and operations, but to provide reasonable assurance that activities associated with awards are conducted according to regulatory requirements and sound practices.

4.2 FTA Certifications and Assurances

To ensure compliance with other federal requirements, subrecipients are required to sign federal Certifications and Assurances for FTA Assistance Programs. A subrecipient applying for assistance under any FTA program must annually submit Certifications and Assurances that are applicable to the **subrecipient's award during the current federal fiscal year**.

FTA issues a list of required certifications and assurances for each fiscal year. The FY 2019 list available at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances> and is included as Attachment 4-2 FTA FY 2019 Certifications and Assurances. Some certifications and assurances apply to all applicants.

Others are required from applicants requesting more than \$100,000 in federal assistance or depend on the type of applicant or project.

4.2.1 Program Documents

In addition to the annual Certifications and Assurances, DTR requires subrecipients to maintain Program Documents on file in COTRAMS. These documents are specifically requested and reviewed by Project Coordinators during the SIR and Site Review Process; however, subrecipients are expected to have updated documents in COTRAMS on an ongoing basis. These documents cover all of the applicable areas of review in the FTA's Comprehensive Review Guide (<https://www.transit.dot.gov/regulations-and-guidance/program-oversight/program-oversight>).

Individual FTA programs and non-federal programs require additional submittals. Specific program requirements are detailed in SMP Appendix A (FTA Programs) and Appendix B (Non-Federal Transit Funds).

Finally, there are Civil Rights requirements related to Civil Rights programs for both CDOT and subrecipients. These are described in Chapter 5.

4.2.2 Remedies for Noncompliance

Remedies for a subrecipient's noncompliance with the statutes, regulations, or the terms and conditions of the award or the executed subaward are set forth in 2 Code of Federal Regulations (CFR) 200 (<https://www.govinfo.gov/content/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part200.pdf>). If CDOT determines that a subrecipient is not complying with the general or specific terms of an award, CDOT may impose additional conditions to the award, as described in 2 CFR 200.207, or take additional actions, as detailed in 2 CFR **200.338. Rules pertaining to noncompliance are defined in CDOT's executed** subaward agreement with the subrecipient in the Breach of Agreement and Remedies sections. **CDOT's** standard subaward agreement is included as Attachment 4-3 CDOT Standard Subaward Agreement.

4.2.3 Project Amendments

Subrecipients are responsible for reporting to DTR whenever one or more of the following occurs:

- Budget or schedule changes.
- Milestone or completion dates were not met.
- Identification of problem areas and how the problems will be resolved.
- Expected impacts and the efforts to recover from delays.

DTR takes proactive steps to address issues on projects that are not meeting performance standards, including identifying resources for subrecipients, identifying specific issues causing the delay, and providing a date certain by which time requirements must be met.

CDOT works with a subrecipient to obtain FTA's prior approval of proposed changes, then amend the subaward agreement to extend the end date or adjust awarded amount to reflect the approved changes. The process DTR uses to amend a capital project is shown in Flowchart 4-2 Amendment for Capital Project.

4.2.4 Subaward (Project) Performance Schedule

The subrecipient is responsible for meeting the schedule requirements included in the executed subaward agreement and reporting through COTRAMS on meeting milestones. The DTR Project Coordinator confirms on a regular basis that the project is performing on schedule. If it falls behind schedule, the Project Coordinator notifies the DTR Unit Managers and DTR Director of the underperforming project, and a plan is developed to remediate or terminate the project.

The DTR Unit Managers and the DTR Director monitors schedule changes, with the goal of efficiently addressing underperforming projects and taking proactive steps to close out the projects in a timely manner.

4.3 Cost Principles

4.3.1 General Provisions

DTR expects all subrecipients of federal and state awards to comply with the General Provisions referenced in 2 CFR 200 Subpart E (<https://www.govinfo.gov/content/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part200-subpartE.pdf>). These General Provisions align with oversight practices that ensure subrecipients are fiscally responsible and have sound award management practices.

4.3.2 Basic Considerations

DTR expects all subrecipients of federal and state awards to comply with the Basic Considerations referenced in 2 CFR 200 Subpart E. DTR Project Coordinators and the CDOT Business Office review reimbursement requests to determine if costs are reasonable, allocable, and allowable. The criteria for allowable, reasonable, and allocable costs can be found at 2 CFR 200 403-405. Each cost will need to have these criteria for the specific award being reimbursed, and cannot be cross-referenced against a different award when seeking reimbursement.

4.3.3 Direct and Indirect Costs

Direct costs are the costs that can be identified specifically or that can be directly assigned to such activities with relative ease and a high degree of accuracy for a particular award or project. An indirect cost is one that has been incurred for the common objectives of an organization. Requirements for preparing a Cost Allocation Plan or an Indirect Cost Rate **Proposal are included in Chapter 3. CDOT's Audit Department must approve the subrecipient's** indirect cost plan on an annual basis. Subrecipients that do not have an approved indirect cost rate are allowed to charge a *de minimis* rate of 10% of modified total direct costs.

4.3.4 General Provisions for Selected Items of Cost

2 CFR 200 Subpart E, paragraphs 200.420 to 200.475, cover considerations for allowability of specific cost items. DTR staff can address specific questions from subrecipients.

4.4 Invoicing and Reimbursement

4.4.1 Governing Policies

The federal Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (commonly called Uniform Guidance) is the authoritative set of rules and requirements for federal awards and project management (<https://www.grants.gov/learn-grants/grant-policies/omb-uniform-guidance-2014.html>). In addition, specific requirements are outlined in FTA Circular 5010.1E Award Management Requirements, which is included as an SMP Appendix D and can be found here: <https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/32136/5010-1e-circular-award-management-requirements-7-21-2017.pdf>. Requirements for invoicing and reimbursement are also covered in 2 CFR 200.

The State of Colorado “Fiscal Rules” govern the administrative procedures for reviewing and accepting all requests for reimbursement, and are stricter in some instances than required by federal law. The state fiscal rules are available from the Office of the State Controller at <https://www.colorado.gov/pacific/osc/alpha-index-6#F>

4.4.2 DTR Reimbursement to Subrecipients

According to state fiscal rules, CDOT will not reimburse subrecipients for expenses incurred prior to the date of subaward agreement execution, unless the agreement contains a 60-day retroactivity clause (typically operating projects). Under an executed subaward agreement, a subrecipient must first incur costs before submitting an invoice for reimbursement.

Reimbursement Requests may be held for payment due to any breach of the executed subaward agreement, i.e., lack of reporting or other documented noncompliance with the subaward agreement terms.

4.4.2.1 Eligible Expenses

According to federal and state policies, CDOT pays all reasonable and fully and accurately documented requests for reimbursement within 30-45 calendar days of submittal. If the documentation is incomplete or there are ineligible expenses in the invoice, the process may take longer.

Eligible expenses are defined in an exhibit to the executed subaward agreement titled Verification of Payment checklist and vary depending on the type of project. These are outlined for Section 5310 and Section 5311 programs in SMP Appendix A (FTA Programs) and FASTER in SMP Appendix B (Non-Federal Transit Funds). Information about how to submit documentation for reimbursement is outlined in the COTRAMS Manual in Appendix C.

Supporting documentation for the expenses and payment of expenses includes, but is not limited to, accounting records, such as cancelled checks, paid bills with receipts, or other proof-of-payment; payroll; time and attendance records; contracts; and subaward documents. Some programs have specific requirements related to documentation.

4.4.2.2 Invoicing/Reimbursement Request Schedule

CDOT requires subrecipients to submit Reimbursement Requests in a timely fashion and regularly, according to the executed subaward agreement.

Delay in submitting invoices may result in the subrecipient being considered a higher-risk agency and more stringent requirements may be placed on the agency. For example, the agency may be required to provide additional or more detailed documentation in its Reimbursement Requests. Or, the agency may be required to clear the backlog of invoices before CDOT will approve future applications from the agency.

The process for reimbursement for capital projects is illustrated in Flowchart 4-3 Capital Project Reimbursement Request.

4.5 Procurement Policies and Procedures

4.5.1 CDOT Direct Procurements

CDOT's Procurement and Contract Services office oversees CDOT's direct procurement of goods and services in accordance with State of Colorado Procurement Code and Fiscal Rules. This includes procurement of professional architectural and engineering services, as well as services that do not require an architectural or engineering license. Resources are available at <https://www.codot.gov/business/procurement-and-contract-services>.

The State of Colorado procurement policies and procedures are located here: <https://www.colorado.gov/pacific/osc/procurement-resources> and described further in the following documents:

- Procurement Code (Title 24, Article 101 to Article 112), modernized under Colorado House Bill (HB) 17-1051.
(https://advance.lexis.com/container?config=0345494EJAA5ZjE0MDIyYy1kNzZkLTRkNzktYT_kxMS04YmJhNjBINWUwYzYKAFBvZENhdGFsb2e4CaPI4cak6laXLCWYlBO9&crid=de9a576c-afd4-46c2-8253-d5e72996d564)
https://www.colorado.gov/pacific/sites/default/files/2017A_1051_signed.pdf
- State of Colorado Procurement Code of Ethics and Guidelines
<https://www.colorado.gov/pacific/sites/default/files/State%20of%20Colorado%20Procurement%20Code%20of%20Ethics%20and%20Guidelines.pdf>)
- State of Colorado Procurement & Fiscal Rules
(<https://www.sos.state.co.us/CCR/NumericalCCRDdocList.do?deptID=14&deptName=100,800%20Department%20of%20Personnel%20and%20Administration&agencyID=40&agencyName=101%20Division%20of%20Finance%20and%20Procurement>)

4.5.2 Professional Services Contracts

In Colorado, procurement of professional architectural and engineering services is governed under The Brooks Act. Professional services that are not performed by a licensed architect or **engineer are considered “personal services.”** CDOT’s Procurement Office conducts the procurement process in collaboration with DTR for these types of services according to the Procurement Code and State of Colorado Procurement & Fiscal Rules. The selection is generally made based on meeting minimum requirements and that are outlined in an Invitation for Bid (IFB) or Request for Proposal (RFP).

CDOT’s process for this type of procurement is documented in Flowchart 4-4 Personal Services Procurement. A sample RFP is included as Attachment 4-4 Sample Personal Services RFP.

4.5.3 Competition

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards set forth in 2 CFR 200.319 and Title 49 United States Code 5325(a) (<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title49/pdf/USCODE-2009-title49-subtitleIII-chap53-sec5325.pdf>). CDOT encourages full and open competition.

For its direct procurements, CDOT advertises in the Rocky Mountain Bid System and has an open prequalification process for consultants and contractors wishing to do business with CDOT.

4.5.4 Contracting with Small and Minority Businesses, Women’s Business Enterprises, and Labor Surplus Area Firms

In accordance with 49 CFR Part 26, CDOT seeks to ensure non-discrimination in the award and administration of Department of Transportation (DOT)-assisted contracts and to create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.

Detailed information about CDOT's DBE Program and requirements for subrecipients regarding DBE contracting is provided in Chapter 5.

4.5.5 Third-Party Procurements

As recipients of federal funds used in third-party procurements, CDOT and its subrecipients must comply with the State of Colorado Procurement Code for non-federal procurements, as well as the federal procurement standards outlined in 2 CFR § 200.318 General Procurement Standards through 2 CFR § 200.326 Contract Provisions. Subrecipients must take all necessary affirmative steps to assure that minority businesses, women business enterprises, and labor surplus area firms are used when possible (2 CFR 200.321).

CDOT and its subrecipients are also responsible for ensuring that all of its contracts or subcontracts made in connection with FTA transit funds comply with provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

Subrecipients must track all prime contractors and subcontractors, including DBEs, on all awarded, in process, and closed FTA-funded contracts.

DTR's policies and procedures related to third-party procurements are outlined in Attachment 4-5 DTR Quick Procurement Guide.

4.5.5.1 DTR Oversight of Third-Party Procurements

In its oversight role, DTR monitors and oversees subrecipient purchases of goods and/or services using FTA and state funds to confirm that the procurements are conducted in compliance with applicable state and federal regulations. Subrecipients must incorporate Title VI and DBE nondiscrimination language into procurement documents and awarded contracts.

DTR coordinates, as needed, with the CDOT Procurement and Contract Services Office throughout the procurement process. The Procurement and Contract Services Office reviews the statement of work/specifications; makes recommendation on type of procurement; and drafts and reviews the procurement subaward agreements, Purchase Orders, and associated documentation. The Procurement and Contract Services Office conducts annual training for subrecipients on CDOT procurement procedures. In addition, Title VI and DBE civil rights requirements related to procurement are coordinated with the Civil Rights and Business Resource Center (CRBRC) in accordance with 49 CFR part 26.

4.5.5.2 Subrecipient Written Procurement Procedures

Subrecipients are required to have written procurement procedures that conform to applicable state and local regulations, as well as the federal law and the standards set forth in 2 CFR § 200.318 General Procurement Standards through 2 CFR § 200.326 Contract Provisions.

Below is a list of what should be included in a subrecipient's written procedures for third-party procurements:

- DBE policy or goal.
- Identified dollar thresholds, specifically for sealed bids/competitive process.
- Description of management of payment to contractors.
- A protest and appeal process.
- Standards of conduct.
- Graduated purchasing authority (what employee can authorize what type of purchase).
- Policy for the documentation of responsibility determinations (prior to the award, the bidders are checked for integrity, compliance, past performance, etc.).

4.5.5.3 Subrecipient Third-Party Procurement Process

Subrecipients are required to submit required documentation in COTRAMS for the Project **Coordinator's review and approval at each step of the third-party** procurement process. The procurement process is explained in detail in Attachment 4-5 DTR Quick Procurement Guide.

An overview of the Procurement process is illustrated in Flowchart 4-5 Third-Party Procurement. Requirements for the submittals are detailed in the following sections.

4.5.5.3.1 Independent Cost Estimate

Subrecipients must prepare an Independent Cost Estimate prior to conducting a procurement process. This helps to determine the appropriate procurement method and the special requirements for it, as outlined in 2 CFR 200.320.

4.5.5.3.2 Procurement Method

A Project Coordinator is available to assist a subrecipient in determining which procurement method to use. Procurements may be conducted by an individual agency or through a joint procurement with multiple agencies with common specifications.

Requirements for the different procurement methods can be referenced in Attachment 4-5 DTR Quick Procurement Guide.

4.5.5.3.3 Procurement Forms

DTR follows a 4-step Procurement Approval process in COTRAMS, where the following forms are collected. These forms are more fully explained in Attachment 4-5 DTR Quick Procurement Guide.

- PCR: Procurement Concurrence Request
- PA: Purchase Authorization
- NA: Notice of Acceptance, and Vehicle Checklist
- SA: Security Agreement

4.5.5.3.4 Post-Procurement Administrative Requirements

The subrecipient must include the following items in its procurement records and make them available for the Project Coordinator upon request.

- Record of any debriefing with proposers
- Record of any protest and subrecipient response

4.5.5.3.5 Retention Requirement for Procurement Documentation

The FTA's Best Practices Procurement & Lessons Learned Manual recommends that agencies maintain records for 3 years following project completion or project closeout

(<https://www.transit.dot.gov/funding/procurement/third-party-procurement/best-practices-procurement-manual>). Some examples of documentation to maintain in a written record of procurement history could include:

- Purchase request, acquisition planning information and other pre-solicitation documents.
- Rationale for the method of procurement (e.g., RFP, IFB, Sole Source).
- Independent cost estimate.
- Copy of the solicitation, all addenda and all amendments.
- List of sources solicited.
- Copies of published notices of proposed contract action.
- An abstract of each offer or quote.
- Reasons for contractor selection or rejection.
- Determination that contractor is responsive and responsible.
- Determination that price is fair and reasonable including an analysis of the cost and price data.
- Required internal approvals for award.
- Notice of award
- Notice to unsuccessful quoters or offerors and record of any debriefing.
- Record of any protest.
- Required insurance documents, if any.
- Notice to proceed.

4.6 Project Close-Out

Upon completion of the project—after the purchase of the goods for capital projects or at the end of the service period for operating or mobility management agreements as provided in 2 CFR § 200.343 and within 30 days of the final invoice paid, the subrecipient must submit a project closeout form through COTRAMS and notify the Project Coordinator to close the project. The executed subaward agreement includes the required project close-out elements or other project deliverables.

DTR's process for this is shown in Flowchart 4-6 Project Closeout.

CDOT's policy is to close out projects and FTA awards as soon as practicable and deobligate and reobligate unspent funds, such that "older money" from these closed awards is used first for new projects.

The Project Coordinator verifies that the subrecipient has completed all of its responsibilities related to the project. Examples include:

- Final report and quarterly reports submitted to DTR.
- Vehicle title on file with DTR.
- Copy of completed plan for planning projects, if applicable.

When a project is closed out, terminated or partially terminated, the recipient is responsible for compliance with the requirements in 2 CFR § 200.344 Post-Close Out Adjustments and Continuing Responsibilities.

4.7 Records Retention, Access, and Transfer

The FTA Master Agreement and FTA Circular 5010.1D in SMP Appendix D outline retention and access requirements for all financial and programmatic records, supporting documents, statistical records, and other records of award recipients. The requirements apply to direct recipients, subrecipients, contractors, and subcontractors.

The general requirements for records retention are in Table 4.2. Specific rules are defined in Exhibit D of **the subrecipient's executed** subaward agreement with CDOT in a section called Record Retention and Access to Sites of Performance. **This section also outlines CDOT's right** to access to records related to the project. At project close-out, DTR notifies the subrecipient of any records that must be transferred from the subrecipient.

Table 4.2. General Requirements for Records Retention

Financial and programmatic records, supporting documents, statistical records, and other records	Three years after completion of any subaward agreement, litigation, claim, negotiation, audit, or other action involving the records and started before the expiration of the 3-year period and including resolution of all issues that arise from these actions.
Vehicle Records	Three years after its disposition, including procurement, maintenance, repairs, and inspection records.
Facilities or Real Property	In perpetuity.

As stated in 2 CFR 200.335 regarding the 2013 Executive Order 13642 on Making Open and Machine Readable the New Default for Government Information, CDOT maintains project records in open and machine readable formats; however, CDOT also transmits and accepts paper versions of award-related information when necessary.

CHAPTER 4 ATTACHMENTS

Attachment 4-1. Subrecipient Information Request (SIR) and Site Review Checklist

COLORADO DEPARTMENT OF TRANSPORTATION: DIVISION OF TRANSIT AND RAIL

CHECKLIST IS MEANT FOR USE DURING SITE REVIEWS, DOES NOT REFLECT OFFICIAL FINDINGS

SITE REVIEW	NOTES
Use as an opportunity to show how well projects are progressing and to identify problem areas that might require technical assistance	
PROGRAM	
✓ Interview staff and review files to determine effectiveness of programs	
✓ Sample program brochures and hear updates	
FINANCIAL	
✓ Sample a few financial transactions for accuracy, completeness and review of source documentation (receipts), especially the appropriate use of funds.	
✓ Determine that accounting transactions are recorded in a timely manner.	
✓ Ask business office if they have any concerns.	
✓ Review where records are kept and how they are secured.	
PERSONNEL	
✓ Any new staff? Turnover contributed to?	
CONTRACTS	
✓ Review that contracts or subcontracts for services are conducted competitively (obtained multiple bids, use of selection procedures and monitoring techniques); maintains detailed records documenting the basis of all solicitations/procurements	
✓ Review contract and procurement records; view where they are stored and how they are secured. (PCR, PA, NA, SA)	
PROPERTY	
✓ Review whether recipient keeps adequate property records and maintains an up-to-date inventory of all property used on the grant	
✓ Are there proper controls in place to safeguard property against loss, damage, theft (ie, locked fences or garage, lighting, security system); Where are keys secured?	
✓ Check vehicle maintenance plan for preventative maintenance schedules.	

✓ Check that vehicle maintenance plan coincides with vehicle manufacturing recommendations?	
✓ Has your alternate maintenance schedule been approved by the manufacturer?	
✓ Check 2-3 vehicle records for +/- 500 mi or are within 10% variance to actuals in 80% of the audit sample.	
✓ How are warranty claims handled and tracked back to the manufacturer?	
✓ Record retention - policy & practice (3 years)	
CIVIL RIGHTS	
✓ Where is the (ADA & Title VI) discrimination complaint log kept? If any within the last 3 years, were they sent to CDOT Civil Rights Specialist?	
✓ Is the location of a discrimination complaint process posted on vehicles? At the transit center? Website?	
✓ Ensure correct Civil Rights contacts and ADA & Title VI complaint procedures are posted on the agency's website.	
✓ Ensure requests for reasonable modification are posted on the agency's website.	
SIGNAGE	
✓ Job Safety & Health Protection sign	
✓ If a Job Injury Occurs sign	
✓ Rights as a Worker sign	
✓ Equal Opportunity is the Law sign	
✓ Nondiscrimination public notice (i.e. reception desk - public location - and on the website)	
✓ ADA Policy (if applicable)	
TRANSIT FACILITIES	
✓ Check that transit facilities are open to the public are ADA accessible: <ul style="list-style-type: none"> ○ Is there a clear path of travel from the transit stop/station to adjacent pedestrian pathways? ○ Is there clear access to the boarding area? ○ Is there a flat concrete pad at the boarding area? ○ Is there adequate seating present at the stop/station? ○ Are route numbers on the bus stop sign at least three inches tall? 	

<ul style="list-style-type: none"> ○ Are other signs at the stop/station easy to read? ○ Are there braille signs indicating which buses/trains use that stop/station? ○ Is visual information in terminals, bus stops, or stations variable: by size, contrast, color, layout, spacing, etc. ○ Is auditory information available and are alternatives provided, such as text or voice recognition-to-text technology, visual symbols for emphasis, sound alerts, etc. ○ Is there a clear path of travel from the transit stop/station to adjacent pedestrian pathways? 	
✓ Review ADA accessibility features in public facilities are operational i.e. automatic doorways	
If RIDE ALONG	
✓ Stop announcements made?	
✓ Ask operator to operate the lift or ramp.	
✓ Review if a pre-trip vehicle inspection checklist is used. What items are tracked on it? Lifts?	
ADA-VEHICLE	
✓ Review ADA accessibility features on vehicles are operational (ie, lifts, ramps, kneeling)	
✓ Review complementary paratransit bus schedules to ensure that they mirror the fixed route service provided.	

Attachment 4-2. FTA FY 2019 Certifications and Assurances

CATEGORY 1. CERTIFICATIONS AND ASSURANCES REQUIRED OF EVERY APPLICANT.

All applicants must make the certifications in this category.

1.1. Standard Assurances.

This certification appears on the Office of Management and Budget's standard form 424B "Assurances—Non-Construction Programs". This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
- (b) Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
- (c) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- (d) Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
- (e) Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
- (f) Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:
 - (1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin, as effectuated by U.S. DOT regulation 49 C.F.R. Part 21;
 - (2) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex, as effectuated by U.S. DOT regulation 49 C.F.R. Part 25;
 - (3) Section 5332 of the Federal Transit Law (49 U.S.C. § 5332), which prohibits any person being excluded from participating in, denied a benefit of, or discriminated

- against under, a project, program, or activity receiving financial assistance from FTA because of race, color, religion, national origin, sex, disability, or age.
 - (4) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps, as effectuated by U.S. DOT regulation 49 C.F.R. Part 27;
 - (5) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;
 - (6) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
 - (7) The comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 - (8) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
 - (9) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
 - (10) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,
 - (11) the requirements of any other nondiscrimination statute(s) which may apply to the application.
- (g) Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“Uniform Act”) (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. The requirements of the Uniform Act are effectuated by U.S. DOT regulation 49 C.F.R. Part 24.
 - (h) Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
 - (i) Will comply, as applicable, with the provisions of the Davis–Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.
 - (j) Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

- (k) Will comply with environmental standards which may be prescribed pursuant to the following:
 - (1) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
 - (2) Notification of violating facilities pursuant to EO 11738;
 - (3) Protection of wetlands pursuant to EO 11990;
 - (4) Evaluation of flood hazards in floodplains in accordance with EO 11988;
 - (5) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.);
 - (6) Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.);
 - (7) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and
 - (8) Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
- (l) Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- (m) Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a-1 et seq.).
- (n) Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- (o) Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
- (p) Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
- (q) Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 C.F.R. Part 200, Subpart F, “Audit Requirements”, as adopted and implemented by U.S. DOT at 2 C.F.R. Part 1201.
- (r) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the program under which it is applying for assistance.

- (s) Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a sub-recipient from:
 - (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect;
 - (2) Procuring a commercial sex act during the period of time that the award is in effect; or
 - (3) Using forced labor in the performance of the award or subawards under the award.

1.2. Standard Assurances: Additional Assurances for Construction Projects.

This certification appears on the Office of Management and Budget's standard form 424D "Assurances—Construction Programs" and applies specifically to federally assisted projects for construction. This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency; will record the Federal awarding agency directives; and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
- (b) Will comply with the requirements of the assistance awarding agency with regard to the drafting, review, and approval of construction plans and specifications.
- (c) Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work confirms with the approved plans and specifications, and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

1.3. Procurement.

The Uniform Administrative Requirements, 2 C.F.R. 200.324, allow a recipient to self-certify that its procurement system complies with Federal requirements, in lieu of submitting to certain pre-procurement reviews.

The applicant certifies that its procurement system complies with:

- (a) U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 C.F.R. Part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost

Principles, and Audit Requirements for Federal Awards,” 2 C.F.R. Part 200, particularly 2 C.F.R. §§ 200.317–200.326 “Procurement Standards;

- (b) Federal laws, regulations, and requirements applicable to FTA procurements; and
- (c) The latest edition of FTA Circular 4220.1 and other applicable Federal guidance.

1.4. Suspension and Debarment.

Pursuant to Executive Order 12549, as implemented at 2 C.F.R. Parts 180 and 1200, prior to entering into a covered transaction with an applicant, FTA must determine whether the applicant is excluded from participating in covered non-procurement transactions. For this purpose, FTA is authorized to collect a certification from each applicant regarding the applicant’s exclusion status. 2 C.F.R. § 180.300. Additionally, each applicant must disclose any information required by 2 C.F.R. § 180.335 about the applicant and the applicant’s principals prior to entering into an award agreement with FTA. This certification serves both purposes.

The applicant certifies, to the best of its knowledge and belief, that the applicant and each of its principals:

- (a) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any Federal department or agency;
- (b) Has not, within the preceding three years, been convicted of or had a civil judgment rendered against him or her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;
- (c) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any offense described in paragraph (b) of this certification;
- (d) Has not, within the preceding three years, had one or more public transactions (Federal, State, or local) terminated for cause or default.

CATEGORY 2. TAX LIABILITY AND FELONY CONVICTIONS.

Federal appropriations acts since at least 2014 have prohibited FTA from using funds to enter into an agreement with any corporation that has unpaid Federal tax liabilities or recent felony convictions without first considering the corporation for debarment. As prescribed by U.S. DOT Order 4200.6, FTA requires each applicant to certify as to its tax and felony status.

If the applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the applicant certifies that:

- (a) It has no unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- (b) It has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

CATEGORY 3. LOBBYING.

If the applicant will apply for a grant or cooperative agreement exceeding \$100,000, or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, it must make the following certification and, if applicable, make a disclosure regarding the applicant's lobbying activities. This certification is required by 49 C.F.R. § 20.110 and app. A to that part.

This certification does not apply to an applicant that is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 49 C.F.R. Part 20.

3.1. Certification for Contracts, Grants, Loans, and Cooperative Agreements.

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

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) 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.
- (c) 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 was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 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.

3.2. Statement for Loan Guarantees and Loan Insurance.

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

If any 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 commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement 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 statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CATEGORY 4. PRIVATE SECTOR PROTECTIONS.

If the applicant will apply for funds that it will use to acquire or operate public transportation facilities or equipment, the applicant must make the following certification regarding protections for the private sector.

4.1. Charter Service Agreement.

To enforce the provisions of 49 U.S.C. § 5323(d), FTA's charter service regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following Charter Service Agreement. 49 C.F.R. § 604.4.

The applicant agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 C.F.R. Part 604, the terms and conditions of which are incorporated herein by reference.

4.2. School Bus Agreement.

To enforce the provisions of 49 U.S.C. § 5323(f), FTA's school bus regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following agreement regarding the provision of school bus services. 49 C.F.R. § 605.15.

- (a) If the applicant is not authorized by the FTA Administrator under 49 C.F.R. § 605.11 to engage in school bus operations, the applicant agrees and certifies as follows:
 - (1) The applicant and any operator of project equipment agrees that it will not engage in school bus operations in competition with private school bus operators.
 - (2) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Mass Transit Regulations, or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
- (b) If the applicant is authorized or obtains authorization from the FTA Administrator to engage in school bus operations under 49 C.F.R. § 605.11, the applicant agrees as follows:
 - (1) The applicant agrees that neither it nor any operator of project equipment will engage in school bus operations in competition with private school bus operators except as provided herein.
 - (2) The applicant, or any operator of project equipment, agrees to promptly notify the FTA Administrator of any changes in its operations which might jeopardize the continuation of an exemption under § 605.11.
 - (3) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Transit Administration regulations or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
 - (4) The applicant agrees that the project facilities and equipment shall be used for the provision of mass transportation services within its urban area and that any other use of project facilities and equipment will be incidental to and shall not interfere with the use of such facilities and equipment in mass transportation service to the public.

CATEGORY 5. TRANSIT ASSET MANAGEMENT PLAN.

If the applicant owns, operates, or manages capital assets used to provide public transportation, the following certification is required by 49 U.S.C. § 5326(a).

The applicant certifies that it has, or will develop, a transit asset management plan in compliance with 49 C.F.R. Part 625.

CATEGORY 6. ROLLING STOCK BUY AMERICA REVIEWS AND BUS TESTING.

6.1. Rolling Stock Buy America Reviews.

If the applicant will apply for an award to acquire rolling stock for use in revenue service, it must make this certification. This certification is required by 49 C.F.R. § 663.7.

The applicant certifies that it will conduct or cause to be conducted the pre-award and post-delivery audits prescribed by 49 C.F.R. Part 663 and will maintain on file the certifications required by Subparts B, C, and D of 49 C.F.R. Part 663.

6.2. Bus Testing.

If the applicant will apply for funds for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the applicant must make this certification. This certification is required by 49 C.F.R. § 665.7.

The applicant certifies that the bus was tested at the Bus Testing Facility and that the bus received a passing test score as required by 49 C.F.R. Part 665. The applicant has received or will receive the appropriate full Bus Testing Report and any applicable partial testing reports before final acceptance of the first vehicle.

CATEGORY 7. URBANIZED AREA FORMULA GRANTS PROGRAM.

If the applicant will apply for an award under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), or any other program or award that is subject to the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310); “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)); projects that will receive an award authorized by the Transportation Infrastructure Finance and Innovation Act (“TIFIA”) (23 U.S.C. §§ 601–609) or State Infrastructure Bank Program (23 U.S.C. § 610) (see 49 U.S.C. § 5323(o)); formula awards or competitive awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(a) and (b)); or low or no emission awards to any area under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(c)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5307(c)(1).

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out the program of projects (developed pursuant 49 U.S.C. § 5307(b)), including safety and security aspects of the program;
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities;

- (c) Will maintain equipment and facilities in accordance with the applicant's transit asset management plan;
- (d) Will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—
 - (1) Senior;
 - (2) Individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and
 - (3) Individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. §§ 401 et seq., and 1395 et seq.);
- (e) In carrying out a procurement under 49 U.S.C. § 5307, will comply with 49 U.S.C. §§ 5323 (general provisions) and 5325 (contract requirements);
- (f) Has complied with 49 U.S.C. § 5307(b) (program of projects requirements);
- (g) Has available and will provide the required amounts as provided by 49 U.S.C. § 5307(d) (cost sharing);
- (h) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning);
- (i) Has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;
- (j) Either—
 - (1) Will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under 49 U.S.C. § 5336; or
 - (2) Has decided that the expenditure for security projects is not necessary;
- (k) In the case of an applicant for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census, will submit an annual report listing projects carried out in the preceding fiscal year under 49 U.S.C. § 5307 for associated transit improvements as defined in 49 U.S.C. § 5302; and
- (l) Will comply with 49 U.S.C. § 5329(d) (public transportation agency safety plan).

CATEGORY 8. FORMULA GRANTS FOR RURAL AREAS.

If the applicant will apply for funds made available to it under the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), it must make this certification. Paragraph (a) of this certification helps FTA make the determinations required by 49 U.S.C. § 5310(b)(2)(C). Paragraph (b) of this certification is required by 49 U.S.C. § 5311(f)(2). Paragraph (c) of this certification, which applies to funds apportioned for the Appalachian Development Public Transportation Assistance Program, is necessary to enforce the conditions of 49 U.S.C. § 5311(c)(2)(D).

- (a) The applicant certifies that its State program for public transportation service projects, including agreements with private providers for public transportation service—
 - (1) Provides a fair distribution of amounts in the State, including Indian reservations; and
 - (2) Provides the maximum feasible coordination of public transportation service assisted under 49 U.S.C. § 5311 with transportation service assisted by other Federal sources; and
- (b) If the applicant will in any fiscal year expend less than 15% of the total amount made available to it under 49 U.S.C. § 5311 to carry out a program to develop and support intercity bus transportation, the applicant certifies that it has consulted with affected intercity bus service providers, and the intercity bus service needs of the State are being met adequately.
- (c) If the applicant will use for a highway project amounts that cannot be used for operating expenses authorized under 49 U.S.C. § 5311(c)(2) (Appalachian Development Public Transportation Assistance Program), the applicant certifies that—
 - (1) It has approved the use in writing only after providing appropriate notice and an opportunity for comment and appeal to affected public transportation providers; and
 - (2) It has determined that otherwise eligible local transit needs are being addressed.

CATEGORY 9. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS AND THE EXPEDITED PROJECT DELIVERY FOR CAPITAL INVESTMENT GRANTS PILOT PROGRAM.

If the applicant will apply for an award under any subsection of the Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), including an award made pursuant to the FAST Act's Expedited Project Delivery for Capital Investment Grants Pilot Program (Pub. L. 114-94, div. A, title III, § 3005(b)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5309(c)(2) and Pub. L. 114-94, div. A, title III, § 3005(b)(3)(B).

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
- (c) Will maintain equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan; and
- (d) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning).

CATEGORY 10. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS.

If the applicant is in an urbanized area and will apply for an award under subsection (a) (formula grants) or subsection (b) (competitive grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 7 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5339(a)(3) and (b)(6), respectively.

If the applicant is in a rural area and will apply for an award under subsection (a) (formula grants) or subsection (b) (competitive grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 8 for Formula Grants for Rural Areas (49 U.S.C. § 5311). This certification is required by 49 U.S.C. § 5339(a)(3) and (b)(6), respectively.

If the applicant, regardless of whether it is in an urbanized or rural area, will apply for an award under subsection (c) (low or no emission vehicle grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 7 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5339(c)(3).

Making this certification will incorporate by reference the applicable certifications in Category 7 or Category 8.

CATEGORY 11. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.

If the applicant will apply for an award under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C. § 5310), it must make the certification in Category 7 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5310(e)(1). Making this certification will incorporate by reference the certification in Category 7, except that FTA has determined that (d), (f), (i), (j), and (k) of Category 7 do not apply to awards made under 49 U.S.C. § 5310 and will not be enforced.

In addition to the certification in Category 7, the applicant must make the following certification that is specific to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program. This certification is required by 49 U.S.C. § 5310(e)(2).

The applicant certifies that:

- (a) The projects selected by the applicant are included in a locally developed, coordinated public transit-human services transportation plan;
- (b) The plan described in clause (a) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public;
- (c) To the maximum extent feasible, the services funded under 49 U.S.C. § 5310 will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services; and
- (d) If the applicant will allocate funds received under 49 U.S.C. § 5310 to subrecipients, it will do so on a fair and equitable basis.

CATEGORY 12. STATE OF GOOD REPAIR GRANTS.

If the applicant will apply for an award under FTA’s State of Good Repair Grants Program (49 U.S.C. § 5337), it must make the following certification. Because FTA generally does not review the transit asset management plans of public transportation providers, this certification is necessary to enforce the provisions of 49 U.S.C. § 5337(a)(4).

The applicant certifies that the projects it will carry out using assistance authorized by the State of Good Repair Grants Program, 49 U.S.C. § 5337, are aligned with the applicant’s most recent transit asset management plan and are identified in the investment and prioritization section of such plan, consistent with the requirements of 49 C.F.R. Part 625.

CATEGORY 13. INFRASTRUCTURE FINANCE PROGRAMS.

If the applicant will apply for an award for a project that will include assistance under the Transportation Infrastructure Finance and Innovation Act (“TIFIA”) Program (23 U.S.C. §§ 601–609) or the State Infrastructure Banks (“SIB”) Program (23 U.S.C. § 610), it must make the certifications in Category 7 for the Urbanized Area Formula Grants Program, Category 9 for the Fixed Guideway Capital Investment Grants program, and Category 12 for the State of Good Repair Grants program. These certifications are required by 49 U.S.C. § 5323(o).

Making this certification will incorporate the certifications in Categories 7, 9, and 12 by reference.

CATEGORY 14. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

If the applicant will apply for an award under FTA's Urbanized Area Formula Grants Program (49 U.S.C. § 5307), Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) programs, the applicant must make the following certification. The applicant must make this certification on its own behalf and on behalf of its subrecipients and contractors. This certification is required by 49 C.F.R. § 655.83.

The applicant certifies that it, its subrecipients, and its contractors are compliant with FTA's regulation for the Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, 49 C.F.R. Part 655.

CATEGORY 15. RAIL SAFETY TRAINING AND OVERSIGHT.

If the applicant is a State with at least one rail fixed guideway system, or is a State Safety Oversight Agency, or operates a rail fixed guideway system, it must make the following certification. The elements of this certification are required by 49 C.F.R. §§ 659.43, 672.31, and 674.39.

The applicant certifies that the rail fixed guideway public transportation system and the State Safety Oversight Agency for the State are:

- (a) Compliant with the requirements of 49 C.F.R. part 659, "Rail Fixed Guideway Systems; State Safety Oversight";
- (b) Compliant with the requirements of 49 C.F.R. part 672, "Public Transportation Safety Certification Training Program"; and
- (c) Compliant with the requirements of 49 C.F.R. part 674, "State Safety Oversight".

CATEGORY 16. DEMAND RESPONSIVE SERVICE.

If the applicant operates demand responsive service and will apply for an award to purchase a non-rail vehicle that is not accessible within the meaning of 49 C.F.R. Part 37, it must make the following certification. This certification is required by 49 C.F.R. § 37.77.

The applicant certifies that the service it provides to individuals with disabilities is equivalent to that provided to other persons. A demand responsive system, when viewed in its entirety, is deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

- (a) Response time;

- (b) Fares;
- (c) Geographic area of service;
- (d) Hours and days of service;
- (e) Restrictions or priorities based on trip purpose;
- (f) Availability of information and reservation capability; and
- (g) Any constraints on capacity or service availability.

CATEGORY 17. INTEREST AND FINANCING COSTS.

If the applicant will pay for interest or other financing costs of a project using assistance awarded under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), the Fixed Guideway Capital Investment Grants Program (49 U.S.C. § 5309), or any program that must comply with the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310), “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)), or awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the following certification. This certification is required by 49 U.S.C. §§ 5307(e)(3) and 5309(k)(2)(D).

The applicant certifies that:

- (a) Its application includes the cost of interest earned and payable on bonds issued by the applicant only to the extent proceeds of the bonds were or will be expended in carrying out the project identified in its application; and
- (b) The applicant has shown or will show reasonable diligence in seeking the most favorable financing terms available to the project at the time of borrowing.

CATEGORY 18. CONSTRUCTION HIRING PREFERENCES.

If the applicant will ask FTA to approve the use of geographic, economic, or any other hiring preference not otherwise authorized by law on any contract or construction project to be assisted with an award from FTA, it must make the following certification. This certification is required by the Consolidated Appropriations Act, 2019, Pub. L. 116-6, div. G, title I, § 191.

The applicant certifies the following:

- (a) That except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the contract requires resides in the jurisdiction;
- (b) That the applicant will include appropriate provisions in its bid document ensuring that the contractor does not displace any of its existing employees in order to satisfy such hiring preference; and

- (c) That any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.

FTA FISCAL YEAR 2019 CERTIFICATIONS AND ASSURANCES
FEDERAL FISCAL YEAR 2019 CERTIFICATIONS AND ASSURANCES FOR FTA
ASSISTANCE PROGRAMS

(Signature pages alternate to providing Certifications and Assurances in TrAMS.)

Name of Applicant:_____

The Applicant certifies to the applicable provisions of categories 01–18. _____

Or,

The Applicant certifies to the applicable provisions of the categories it has selected:

Category	Certification
01 Certifications and Assurances Required of Every Applicant	_____
02 Tax Liability and Felony Convictions	_____
03 Lobbying	_____
04 Private Sector Protections	_____
05 Transit Asset Management Plan	_____
06 Rolling Stock Buy America Reviews and Bus Testing	_____
07 Urbanized Area Formula Grants Program	_____
08 Formula Grants for Rural Areas	_____
09 Fixed Guideway Capital Investment Grants and the Expedited Project Delivery for Capital Investment Grants Pilot Program	_____
10 Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs	_____
11 Enhanced Mobility of Seniors and Individuals with Disabilities Programs	_____
12 State of Good Repair Grants	_____
13 Infrastructure Finance Programs	_____
14 Alcohol and Controlled Substances Testing	_____
15 Rail Safety Training and Oversight	_____
16 Demand Responsive Service	_____
17 Interest and Financing Costs	_____
18 Construction Hiring Preferences	_____

FEDERAL FISCAL YEAR 2019 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE

PAGE

(Required of all Applicants for federal assistance to be awarded by FTA in FY 2019)

AFFIRMATION OF APPLICANT

Name of the Applicant: _____

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in federal fiscal year 2019, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

FTA intends that the Certifications and Assurances the Applicant selects on the other side of this document should apply to each Award for which it now seeks, or may later seek federal assistance to be awarded during federal fiscal year 2019.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature _____ Date: _____

Name _____ Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): _____

As the undersigned Attorney for the above-named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

Signature _____ Date: _____

Name _____ Attorney for Applicant

Each Applicant for federal assistance to be awarded by FTA must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within TrAMS, provided the Applicant has on file and uploaded to TrAMS this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.

Attachment 4-3. CDOT Standard Subaward Agreement

STATE OF COLORADO SUBAWARD AGREEMENT

COVER PAGE

State Agency Department of Transportation	Agreement Number/PO Number XX-HTR-ZL-XXXXXX/491XXXXXX		
Subrecipient XXXXXXXXXXXX	Agreement Performance Beginning Date The Effective Date		
Subaward Agreement Amount Federal Funds Maximum Amount (80%) \$XX,XXX.XX Local Funds Local Match Amount (20%) \$XX,XXX.XX Agreement Total \$XX,XXX.XX	Initial Agreement Expiration Date December 31, 2021 Fund Expenditure End Date December 31, 2021 Agreement Authority Authority to enter into this Agreement exists in CRS §§43-1-106, 43-1-110, 43-1-117.5, 43-1-701, 43-1-702 and 43-2-101(4)(c), appropriated and otherwise made available pursuant to the FAST ACT, MAP-21, SAFETEA_LU, 23 USC §104 and 23 USC §149.		
Agreement Purpose XXXXXXXXXXXX			
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Agreement: <ol style="list-style-type: none"> 1. Exhibit A – Statement of Work and Budget. 2. Exhibit B – Sample Option Letter. 3. Exhibit C – Federal Provisions. 4. Exhibit D – Required Federal Contract/Agreement Clauses. 5. Exhibit E – Verification of Payment. <p>In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:</p> <ol style="list-style-type: none"> 1. Exhibit C – Federal Provisions. 2. Exhibit D – Required Federal Contract/Agreement Clauses. 3. Colorado Special Provisions in §18 of the main body of this Agreement. 4. The provisions of the other sections of the main body of this Agreement. 5. Exhibit A – Statement of Work and Budget. 6. Exhibit B – Sample Option Letter 			
Principal Representatives <table style="width: 100%;"> <tr> <td style="width: 50%;"> For the State: To Be Determined Division of Transit and Rail Colorado Dept. of Transportation 2829 W. Howard Place Denver, CO 80204 TBD </td> <td style="width: 50%;"> For Subrecipient: XXXXXXXX XXXXXXXX XXXXXXXX XXXXXX, XX XXXXXX-XXXX XXXXXXXX@XXXXXXXX.org </td> </tr> </table>		For the State: To Be Determined Division of Transit and Rail Colorado Dept. of Transportation 2829 W. Howard Place Denver, CO 80204 TBD	For Subrecipient: XXXXXXXX XXXXXXXX XXXXXXXX XXXXXX, XX XXXXXX-XXXX XXXXXXXX@XXXXXXXX.org
For the State: To Be Determined Division of Transit and Rail Colorado Dept. of Transportation 2829 W. Howard Place Denver, CO 80204 TBD	For Subrecipient: XXXXXXXX XXXXXXXX XXXXXXXX XXXXXX, XX XXXXXX-XXXX XXXXXXXX@XXXXXXXX.org		

SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature.

<p>SUBRECIPIENT XXXXXXX</p> <hr/> <p>By: Print Name of Authorized Individual</p> <p>Date: _____</p>	<p>STATE OF COLORADO Jared S. Polis, Governor Colorado Department of Transportation Shoshana M. Lew, Executive Director</p> <hr/> <p>By: _____</p> <p>Date: _____</p>
<p>2nd State or Subrecipient Signature if needed</p> <hr/> <p>By: Print Name of Authorized Individual</p> <p>Date: _____</p>	<p>LEGAL REVIEW Philip J. Weiser, Attorney General</p> <hr/> <p>By: Assistant Attorney General</p> <p>Date: _____</p>
<p>In accordance with §24-30-202, C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p>STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <hr/> <p>By: Colorado Department of Transportation</p> <p>Effective Date: _____</p>	

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1. PARTIES

This Agreement is entered into by and between Subrecipient named on the Cover Page for this Agreement (the “Subrecipient”), and the STATE OF COLORADO acting by and through the State agency named on the Cover Page for this Agreement (the “State”). Subrecipient and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and the Grant Funds shall be expended by the Fund Expenditure End Date shown on the Cover Page for this Agreement. The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Subrecipient for any Work performed or expense incurred before the Effective Date, except as described in §5.D, or after the Fund Expenditure End Date.

B. Initial Term

The Parties’ respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Cover Page for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the Cover Page for this Agreement (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Extension Terms - State’s Option

The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, of 1 year or less at the same rates and under the same terms specified in this Agreement (each such period an “Extension Term”). In order to exercise this option, the State shall provide written notice to Subrecipient in a form substantially equivalent to the Sample Option Letter attached to this Agreement.

D. End of Term Extension

If this Agreement approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Subrecipient as provided in §14, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an “End of Term Extension”), regardless of whether additional Extension Terms are available or not. The provisions of this Agreement in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement Agreement or modification extending the total term of this Agreement.

E. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, the State, in its discretion, may terminate this Agreement in whole or in part. A determination that this Agreement should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Agreement by the State for breach by Subrecipient, which shall be governed by §12.A.i.

i. Method and Content

The State shall notify Subrecipient of such termination in accordance with §14. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Subrecipient shall be subject to the rights and obligations set forth in §12.A.i.a.

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Subrecipient an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Subrecipient for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Subrecipient which are directly attributable to the uncompleted portion of Subrecipient's obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Subrecipient hereunder.

F. Subrecipient's Termination Under Federal Requirements

Subrecipient may request termination of this Agreement by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Agreement is terminated in this manner, then Subrecipient shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **"Agreement"** means this subaward agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. **"Award"** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- C. **"Breach of Agreement"** means the failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Subrecipient, or the appointment of a receiver or similar officer for Subrecipient or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Subrecipient is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Agreement, then such debarment or suspension shall constitute a breach.
- D. **"Budget"** means the budget for the Work described in Exhibit A.
- E. **"Business Day"** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1), C.R.S.
- F. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.
- G. **"Effective Date"** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature for this Agreement.
- H. **"End of Term Extension"** means the time period defined in §2.D.

- I. **“Exhibits”** means the exhibits and attachments included with this Contract as shown on the Cover Page for this Contract.
- J. **“Extension Term”** means the time period defined in §2.C.
- K. **“Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract, under the Federal Acquisition Regulations or by a formula or block grant, by a Federal Awarding Agency to the Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a Subrecipient or payments to an individual that is a beneficiary of a Federal program.
- L. **“Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. Federal Transit Administration (FTA) is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- M. **“FTA”** means Federal Transit Administration.
- N. **“Goods”** means any movable material acquired, produced, or delivered by Subrecipient as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Subrecipient in connection with the Services.
- O. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- P. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401 et. seq. C.R.S. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- Q. **“Initial Term”** means the time period defined in §2.B.
- R. **“Master Agreement”** means the FTA Master Agreement document incorporated by reference and made part of FTA’s standard terms and conditions governing the administration of a project supported with federal assistance awarded by FTA.
- S. **“Matching Funds”** (Local Funds, or Local Match) means the funds provided Subrecipient as a match required to receive the Grant Funds and includes in-kind contribution.
- T. **“Party”** means the State or Subrecipient, and “Parties” means both the State and Subrecipient.
- U. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501, C.R.S.
- V. **“Recipient”** means the State agency shown on the Signature and Cover Page of this Agreement, for the purposes of this Federal Award.
- W. **“Services”** means the services to be performed by Subrecipient as set forth in this Agreement and shall include any services to be rendered by Subrecipient in connection with the Goods.
- X. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include but is not limited to PII and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Subrecipient which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Subrecipient without restrictions at the time of its disclosure to Subrecipient; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Subrecipient to the State; (iv) is disclosed to Subrecipient, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- Y. **“State Fiscal Rules”** means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.

- Z. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- AA. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- BB. **“Subcontractor”** means third-parties, if any, engaged by Subrecipient to aid in performance of the Work. “Subcontractor” also includes sub-recipients of grant funds.
- CC. **“Subrecipient”** means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency. For the purposes of this Agreement, Contractor is a Subrecipient.
- DD. **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, commonly known as the “Super Circular, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- EE. **“Work”** means the Goods delivered and Services performed pursuant to this Agreement.
- FF. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, information, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Grant Award Letter that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. STATEMENT OF WORK AND BUDGET

Subrecipient shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate Subrecipient for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

5. PAYMENTS TO SUBRECIPIENT

A. Maximum Amount

Payments to Subrecipient are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Subrecipient any amount under this Agreement that exceeds the Agreement Maximum shown on Cover Page of this Agreement.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Subrecipient in the amounts and in accordance with the schedule and other conditions set forth in Exhibit A.
- b. Subrecipient shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State’s receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Subrecipient and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Subrecipient shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under this Agreement.

ii. Interest

Amounts not paid by the State within 45 days of the State’s acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Subrecipient shall invoice the State separately for accrued interest on

delinquent amounts, and the invoice shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Payment Disputes

If Subrecipient disputes any calculation, determination or amount of any payment, Subrecipient shall notify the State in writing of its dispute within 30 days following the earlier to occur of Subrecipient's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Subrecipient and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Subrecipient beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State's obligation to pay Subrecipient shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in §2.E.

v. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Matching Funds

Subrecipient shall provide Matching Funds as provided in §5.A. and Exhibit A. Subrecipient shall have raised the full amount of Matching Funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Subrecipient's obligation to pay all or any part of any matching funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Subrecipient and paid into Subrecipient's treasury or bank account. Subrecipient represents to the State that the amount designated "Subrecipient's Matching Funds" in Exhibit A has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Subrecipient does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Subrecipient. Subrecipient shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Subrecipient's laws or policies

D. Reimbursement of Subrecipient Costs

- i. The State shall reimburse Subrecipient for the federal share of properly documented allowable costs related to the Work after review and approval thereof, subject to the provisions of §5, this Agreement, and Exhibit A. However, any costs incurred by Subrecipient prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. The State shall pay Subrecipient for costs or expenses incurred or performance by the Subrecipient prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules, and regulations applicable to the Work provide for such retroactive payments to the Subrecipient. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement.
- ii. The State shall reimburse Subrecipient's allowable costs, not exceeding the maximum total amount described in Exhibit A and §5 for all allowable costs described in this Subaward and shown in Exhibit A, except that Subrecipient may adjust the amounts between each line item of Exhibit A without formal modification to this Agreement as long as the Subrecipient provides notice to the State of the change,

the change does not modify the total maximum amount of this Agreement or the maximum amount for any state or federal fiscal year, and the change does not modify any requirements of the Work.

- iii. The State shall only reimburse allowable costs described in this Contract and shown in the Budget if those costs are:
 - a. Reasonable and necessary to accomplish the Work and for the Goods and Services provided; and
 - b. Equal to the actual net cost to Subrecipient (i.e. the price paid minus any items of value received by Subrecipient that reduce the cost actually incurred).
- iv. Subrecipient's costs for Work performed after the Fund Expenditure End Date shown on the Cover Page for this Agreement, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. Subrecipient shall initiate any payment request by submitting invoices to the State in the form and manner set forth and approved by the State.

E. Close-Out

Subrecipient shall close out this Award within 45 days after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement. To complete close-out, Subrecipient shall submit to the State all deliverables (including documentation) as defined in this Agreement and Subrecipient's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If the Federal Awarding Agency has not closed this Federal Award within 1 year and 90 days after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement due to Subrecipient's failure to submit required documentation, then Subrecipient may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

6. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to §16 or pursuant to any other Exhibit, for any Agreement having a term longer than 3 months, Subrecipient shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State.

B. Litigation Reporting

If Subrecipient is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Subrecipient's ability to perform its obligations under this Agreement, Subrecipient shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in §14.

C. Performance and Final Status

Subrecipient shall submit all financial, performance and other reports to the State no later than 45 calendar days after the end of the Initial Term if no Extension Terms are exercised, or the final Extension Term exercised by the State, containing an evaluation and review of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Subrecipient shall disclose, in a timely manner, in writing to the State and the Federal Awarding Agency, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The State or the Federal Awarding Agency may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

7. SUBRECIPIENT RECORDS

A. Maintenance

Subrecipient shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Subrecipient shall maintain such records for a period (the "Record Retention Period") of three years following the date of submission to the State of the final

expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Subrecipient in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property.

B. Inspection

Subrecipient shall permit the State to audit, inspect, examine, excerpt, copy and transcribe Subrecipient Records during the Record Retention Period. Subrecipient shall make Subrecipient Records available during normal business hours at Subrecipient's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 2 Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Subrecipient's performance of its obligations under this Agreement using procedures as determined by the State. The federal government and any other duly authorized agent of a governmental agency, in its discretion, may monitor Subrecipient's performance of its obligations under this Agreement using procedures as determined by that governmental entity. Subrecipient shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Subrecipient and this Agreement. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Subrecipient's performance in a manner that does not unduly interfere with Subrecipient's performance of the Work.

D. Final Audit Report

Subrecipient shall promptly submit to the State a copy of any final audit report of an audit performed on Subrecipient's records that relates to or affects this Agreement or the Work, whether the audit is conducted by Subrecipient or a third party. Additionally, if Subrecipient is required to perform a single audit under 2 CFR 200.501, *et. seq.*, then Subrecipient shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

8. CONFIDENTIAL INFORMATION - STATE RECORDS

A. Confidentiality

Subrecipient shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Subrecipient shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law or approved in Writing by the State. Subrecipient shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. If Subrecipient or any of its Subcontractors will or may receive the following types of data, Subrecipient or its Subcontractors shall provide for the security of such data. Subrecipient shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Subrecipient may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Subrecipient shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Subrecipient shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions.

C. Use, Security, and Retention

Subrecipient shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure

environment that ensures confidentiality of all State Confidential Information wherever located. Subrecipient shall provide the State with access, subject to Subrecipient's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Subrecipient shall return State Records provided to Subrecipient or destroy such State Records and certify to the State that it has done so, as directed by the State. If Subrecipient is prevented by law or regulation from returning or destroying State Confidential Information, Subrecipient warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Subrecipient becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Subrecipient can establish that none of Subrecipient or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Subrecipient shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Subrecipient shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan, in its sole discretion and Subrecipient shall make all modifications as directed by the State. If Subrecipient cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Subrecipient shall reimburse the State for the reasonable costs thereof.

E. Safeguarding PII

If Subrecipient or any of its Subcontractors will or may receive PII under this Agreement, Subrecipient shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Subrecipient shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Subrecipient shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Subrecipient under this Agreement. Such a conflict of interest would arise when a Subrecipient or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement.

B. Apparent Conflicts of Interest

Subrecipient acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Subrecipient shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Subrecipient's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Subrecipient is uncertain whether a conflict or the appearance of a conflict has arisen, Subrecipient shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

10. INSURANCE

Subrecipient shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the State.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Subrecipient or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent subrecipients, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

D. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Subrecipient and Subcontractors.

E. Primacy of Coverage

Coverage required of Subrecipient and each Subcontractor shall be primary over any insurance or self-insurance program carried by Subrecipient or the State.

F. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Subrecipient and Subrecipient shall forward such notice to the State in accordance with §14 within 7 days of Subrecipient's receipt of such notice.

G. Subrogation Waiver

All commercial insurance policies secured or maintained by Subrecipient or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Subrecipient or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

H. Public Entities

If Subrecipient is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"), Subrecipient shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Subrecipient shall ensure that the Subcontractor maintain at all times during the terms of this Subrecipient, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

I. Certificates

For each commercial insurance plan provided by Subrecipient under this Agreement, Subrecipient shall provide to the State certificates evidencing Subrecipient's insurance coverage required in this Agreement within 7 Business Days following the Effective Date. Subrecipient shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within 7 Business Days following the Effective Date, except that, if Subrecipient's subcontract is not in effect as of the Effective Date, Subrecipient shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within 7 Business Days following Subrecipient's execution of the subcontract. No later than 15 days before the expiration date of Subrecipient's or any Subcontractor's coverage, Subrecipient shall

deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Subrecipient shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

11. BREACH OF AGREEMENT

In the event of a Breach of Agreement, the aggrieved Party shall give written notice of Breach of Agreement to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §12 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in this Agreement in order to protect the public interest of the State; or if Subrecipient is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Agreement in whole or in part or institute any other remedy in this Agreement as of the date that the debarment or suspension takes effect.

12. REMEDIES

A. State's Remedies

If Subrecipient is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in §11, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Subrecipient's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Additionally, if Subrecipient fails to comply with any terms of the Federal Award, then the State may, in its discretion or at the direction of a Federal Awarding Agency, terminate this entire Agreement or any part of this Agreement. Subrecipient shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Subrecipient shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Subrecipient shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Subrecipient shall assign to the State all of Subrecipient's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Subrecipient shall take timely, reasonable and necessary action to protect and preserve property in the possession of Subrecipient but in which the State has an interest. At the State's request, Subrecipient shall return materials owned by the State in Subrecipient's possession at the time of any termination. Subrecipient shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Subrecipient for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Subrecipient was not in breach or that Subrecipient's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under §2.E.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Subrecipient shall remain liable to the State for any damages sustained by the State in connection with any breach by Subrecipient, and the State may withhold payment to Subrecipient for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Subrecipient is determined. The State may withhold any amount that may be due Subrecipient as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Subrecipient's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Subrecipient to an adjustment in price or cost or an adjustment in the performance schedule. Subrecipient shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Subrecipient after the suspension of performance.

b. Withhold Payment

Withhold payment to Subrecipient until Subrecipient corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Subrecipient's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal of any of Subrecipient's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Subrecipient shall, as approved by the State (i) secure that right to use such Work for the State and Subrecipient; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. Subrecipient's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Subrecipient, following the notice and cure period in §11 and the dispute resolution process in §13 shall have all remedies available at law and equity.

13. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Subrecipient for resolution.

B. Resolution of Controversies

If the initial resolution described in §13.A fails to resolve the dispute within 10 Business Days, Subrecipient shall submit any alleged breach of this Agreement by the State to the Procurement Official of the State Agency named on the Cover Page of this Agreement as described in §24-101-301(30), C.R.S. for resolution following the same resolution of controversies process as described in §§24-106-109, and 24-109-101.1 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Subrecipient wishes to challenge any decision rendered by the Procurement Official, Subrecipient's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, in the same manner as described in the Resolution Statutes before Subrecipient pursues any further action. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations regardless of whether the Colorado Procurement Code applies to this Agreement.

14. NOTICES and REPRESENTATIVES

Each individual identified as a Principal Representative on the Cover Page for this Agreement shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered **(A)** by hand with receipt required, **(B)** by certified or registered mail to such Party's principal representative at the address set forth below or **(C)** as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Agreement. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement. Either Party may change its principal representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative, by notice submitted in accordance with this section without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Subrecipient agrees to provide to the State a royalty-free, non-exclusive and irrevocable license to reproduce publish or otherwise use and to authorize others to use the Work Product described herein, for the Federal Government and State purposes. All Work Product shall be delivered to the State by Subrecipient upon completion or termination hereof.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, "State Materials"). Subrecipient shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Subrecipient's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Subrecipient shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Subrecipient

Subrecipient retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Subrecipient including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Subrecipient under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Subrecipient Property"). Subrecipient Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

16. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Subrecipient under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this section shall apply. Subrecipient agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-106, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of Agreement performance information in the State's Agreement management system ("Contract Management System" or "CMS"). Subrecipient's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

17. GENERAL PROVISIONS

A. Assignment

Subrecipient's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Subrecipient's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Subcontracts

Subrecipient shall not enter into any subaward or subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Subrecipient shall submit to the State a copy of each such subaward or subcontract upon request by the State. All subawards and subcontracts entered into by Subrecipient in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement. If the entity with whom Subrecipient enters into a subcontract or subaward would also be considered a Subrecipient, then the subcontract or subaward entered into by Subrecipient shall also contain provisions permitting both Subrecipient and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

C. Binding Effect

Except as otherwise provided in §17.A., all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

H. Digital Signatures

If any signatory signs this Agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

I. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the Colorado State Controller.

J. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

K. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Subrecipient's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

L. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of this Agreement.

M. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

N. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Subrecipient. Subrecipient shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Subrecipient may wish to have in place in connection with this Agreement.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in §17.A., this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Subrecipient shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Subrecipient's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations

Subrecipient shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

T. Indemnification

i. General Indemnification

Subrecipient shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Subrecipient, or its employees, agents, Subcontractors, or assignees in connection with this Agreement.

ii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Subrecipient in violation of §8 may be cause for legal action by third parties against Subrecipient, the State, or their respective agents. Subrecipient shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by the State in relation

to any act or omission by Subrecipient, or its employees, agents, assigns, or Subcontractors in violation of §8.

iii. Intellectual Property Indemnification

Subrecipient shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

U. Federal Provisions

Subrecipient shall comply with all applicable requirements of Exhibit D at all times during the term of this Agreement.

18. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR.

Subrecipient shall perform its duties hereunder as an independent contractor and not as an employee. Neither Subrecipient nor any agent or employee of Subrecipient shall be deemed to be an agent or employee of the State. Subrecipient shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Subrecipient and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Subrecipient or any of its agents or employees. Subrecipient shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Subrecipient shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Subrecipient shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Subrecipient harmless; requires the State to agree to binding arbitration; limits Subrecipient's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Subrecipient's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Subrecipient hereby certifies and warrants that, during the term of this Contract and any extensions, Subrecipient has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Subrecipient is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Subrecipient has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Subrecipient's services and Subrecipient shall not employ any person having such known interests.

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Subrecipient in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Subrecipient by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Subrecipient, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS FOR SERVICES. §8-17.5-101, *et seq.*, C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Subrecipient certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Subrecipient shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a Subcontractor that fails to certify to Subrecipient that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Subrecipient (i) shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment ("Department Program") to undertake pre-employment screening of job applicants while this Contract is being performed, (ii) shall notify the Subcontractor and the contracting State agency or institution of higher education within 3 days if Subrecipient has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Subrecipient participates in the Department program, Subrecipient shall deliver to the contracting State agency, Institution of Higher Education or political

subdivision, a written, notarized affirmation, affirming that Subrecipient has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Subrecipient fails to comply with any requirement of this provision or §§8-17.5-101, *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Subrecipient shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §24-76.5-101, *et seq.*, C.R.S.

Subrecipient, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Subrecipient **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of §§24-76.5-101, *et seq.*, C.R.S., and **(iii)** has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Contract.

EXHIBIT A, STATEMENT OF WORK AND BUDGET

EXHIBIT B, SAMPLE OPTION LETTER

State Agency Department of Transportation	Option Letter Number Insert the Option Number (e.g. "1" for the first option)
Subrecipient Insert Grantee's Full Legal Name, including "Inc.", "LLC", etc...	Original Agreement Number Insert CMS number or Other Contract Number of the Original Contract
Subaward Agreement Amount Federal Funds Maximum Amount (%) \$0.00 Local Funds Local Match Amount (%) \$0.00 Agreement Total \$0.00	Option Agreement Number Insert CMS number or Other Contract Number of this Option Agreement Performance Beginning Date The later of the Effective Date or Month, Day, Year Current Agreement Expiration Date Month, Day, Year

1. **OPTIONS:**

A. Option to extend for an Extension Term.

2. **REQUIRED PROVISIONS:**

A. **For use with Option 1(A):** In accordance with Section(s) 2.B of the Original Agreement referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current Agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.

B. **For use with Options 1(A):** The Agreement Maximum Amount table on the Agreement's Signature and Cover Page is hereby deleted and replaced with the Current Agreement Maximum Amount table shown above.

3. **OPTION EFFECTIVE DATE:**

A. The effective date of this Option Letter is upon approval of the State Controller or, whichever is later.

STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director	In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD
By: _____ Name & Title of Person Signing for Agency or IHE	By: _____ Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval
Date: _____	Option Effective Date: _____

EXHIBIT C, FEDERAL PROVISIONS

1. APPLICABILITY OF PROVISIONS.

- 1.1. The Contract to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Contract, or any attachments or exhibits incorporated into and made a part of the Contract, the provisions of these Federal Provisions shall control.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
- 2.1.1. “Award” means an award of Federal financial assistance, and the Contract setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
- 2.1.1.1. Awards may be in the form of:
- 2.1.1.1.1. Grants;
- 2.1.1.1.2. Contracts;
- 2.1.1.1.3. Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 2.1.1.1.4. Loans;
- 2.1.1.1.5. Loan Guarantees;
- 2.1.1.1.6. Subsidies;
- 2.1.1.1.7. Insurance;
- 2.1.1.1.8. Food commodities;
- 2.1.1.1.9. Direct appropriations;
- 2.1.1.1.10. Assessed and voluntary contributions; and
- 2.1.2.1.11. Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.
- 2.1.1.1.12. Any other items specified by OMB in policy memoranda available at the OMB website or other source posted by the OMB.
- 2.1.1.2. Award **does not** include:
- 2.1.1.2.1. Technical assistance, which provides services in lieu of money;
- 2.1.1.2.2. A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 2.1.1.2.3. Any award classified for security purposes; or
- 2.1.1.2.4. Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).
- 2.1.2. “Contract” means the Contract or Subaward Agreement to which these Federal Provisions are attached and includes all Award types in §2.1.1.1 of this Exhibit.
- 2.1.3. “Contractor” means the party or parties to a Contract or Subaward Agreement funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes Subrecipients and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.
- 2.1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.
- 2.1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpart C;

- 2.1.5.1. A governmental organization, which is a State, local government, or Indian Tribe;
- 2.1.5.2. A foreign public entity;
- 2.1.5.3. A domestic or foreign non-profit organization;
- 2.1.5.4. A domestic or foreign for-profit organization; and
- 2.1.5.5. A Federal agency, but only a Subrecipient under an Award or Sub award to a non-Federal entity.
- 2.1.6. “Executive” means an officer, managing partner or any other employee in a management position.
- 2.1.7. “Federal Award Identification Number (FAIN)” means an Award number assigned by a Federal agency to a Prime Recipient.
- 2.1.8. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR §200.37
- 2.1.9. “FFATA” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 2.1.10. “Federal Provisions” means these Federal Provisions subject to the Transparency Act and Uniform Guidance, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.
- 2.1.11. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.12. “Prime Recipient” means a Colorado State agency or institution of higher education that receives an Award.
- 2.1.13. “Subaward” means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR §200.38. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.14. “Subrecipient” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subrecipient. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.15. “Subrecipient Parent DUNS Number” means the sub recipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the sub recipient’s System for Award Management (SAM) profile, if applicable.
- 2.1.16. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 2.1.17. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
 - 2.1.17.1. Salary and bonus;
 - 2.1.17.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 2.1.17.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.17.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.17.5. Above-market earnings on deferred compensation which is not tax-qualified;

- 2.1.17.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.18. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 2.1.19. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
- 2.1.20. “Vendor” means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

3. COMPLIANCE.

- 3.1. Contractor shall comply with all applicable provisions of the Transparency Act, all applicable provisions of the Uniform Guidance, and the regulations issued pursuant thereto, including but not limited to these Federal Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS.

- 4.1. SAM. Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 4.2. DUNS. Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor’s information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor’s information.

5. TOTAL COMPENSATION.

- 5.1. Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
- 5.1.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
- 5.1.2. In the preceding fiscal year, Contractor received:
- 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Sub awards subject to the Transparency Act; and
- 5.1.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Sub awards subject to the Transparency Act; and
- 5.1.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

- 6.1. Contractor shall report data elements to SAM and to the Prime Recipient as required in this Exhibit if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in this Exhibit

are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR REPORTING.

- 7.1. Reporting requirements in §0 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
- 7.2. The procurement standards in §0 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §0 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS.

- 8.1. If Contractor is a Subrecipient, Contractor shall report as set forth below.
 - 8.1.1. **To SAM.** A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Sub award was made:
 - 8.1.1.1. Subrecipient DUNS Number;
 - 8.1.1.2. Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;
 - 8.1.1.3. Subrecipient Parent DUNS Number;
 - 8.1.1.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
 - 8.1.1.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
 - 8.1.1.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.
 - 8.1.2. **To Prime Recipient.** A Subrecipient shall report to its Prime Recipient, upon the effective date of the Agreement, the following data elements:
 - 8.1.2.1. Subrecipient's DUNS Number as registered in SAM.
 - 8.1.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

9. PROCUREMENT STANDARDS.

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.
- 9.2. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS

- 10.1. A Subrecipient shall permit Recipient and auditors to have access to Sub recipient's records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).

11. SINGLE AUDIT REQUIREMENTS

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
- 11.1.1. **Election.** A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 11.1.2. **Exemption.** If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. **Subrecipient Compliance Responsibility.** A Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.

12. CONTRACT PROVISIONS FOR SUBRECIPIENT CONTRACTS

- 12.1. If Contractor is a Subrecipient, then it shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Agreement.
- 12.1.1. **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.
- 12.1.1.1. During the performance of this contract, the contractor agrees as follows:
- 12.1.1.1.1. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants

- for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- 12.1.1.1.2. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- 12.1.1.1.3. Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 12.1.1.1.4. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 12.1.1.1.5. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 12.1.1.1.6. In the event of Contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 12.1.1.1.7. Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”
- 12.1.2. **Davis-Bacon Act.** Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- 12.1.3. **Rights to Inventions Made Under a Contract or Contract.** If the Federal Award meets the definition of “funding Contract” under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding Contract,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Contracts,” and any implementing regulations issued by the awarding agency.
- 12.1.4. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contracts and subawards of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. **Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier-to-tier up to the non-Federal award.

13. CERTIFICATIONS.

- 13.1. Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed, or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

- 14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 14.2. A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.
- 14.3. There are no Transparency Act reporting requirements for Vendors.

15. EVENT OF DEFAULT.

- 15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

EXHIBIT D - Required FEDERAL Contract/Agreement Clauses

All FTA-Assisted Third-Party Contracts and Subawards from the Current FTA Master Agreement [FTA MA(25)]

Section 3.l. – No Federal government obligations to third-parties by use of a disclaimer

No Federal/State Government Commitment or Liability to Third Parties. Except as the Federal Government expressly consents in writing, the Recipient agrees that:

- (1) The Federal Government does not and shall not have any commitment or liability related to the Underlying Agreement, to any Third Party Participant at any tier, or to any other person or entity that is not a party (FTA or the Recipient) to the Underlying Agreement; and
- (2) Notwithstanding that the Federal Government may have concurred in or approved any Solicitation or Third Party Agreement at any tier that may affect the Underlying Agreement, the Federal Government does not and shall not have any commitment or liability to any Third Party Participant or other entity or person that is not a party (FTA or the Recipient) to the Underlying Agreement.

Section 4.e. – Program fraud and false or fraudulent statements and related acts

False or Fraudulent Statements or Claims.

- (1) *Civil Fraud.* The Recipient acknowledges and agrees that:
 - (i) Federal laws, regulations, and requirements apply to itself and its Underlying Agreement, including the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 C.F.R. part 31.
 - (ii) By executing the Underlying Agreement, the Recipient certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Recipient provides to the Federal Government.
 - (iii) The Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Recipient presents, submits, or makes available any false, fictitious, or fraudulent information.
- (2) *Criminal Fraud.* The Recipient acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Recipient provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

Section 9. Record Retention and Access to Sites of Performance.

- (a) *Types of Records.* The Recipient agrees to retain, and will require its Third Party Participants to retain, complete and readily accessible records related in whole or in part to the Underlying Agreement, including, but not limited to, data, documents, reports, statistics, subagreements, leases, third party contracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
- (b) *Retention Period.* The Recipient agrees to comply with the record retention requirements in the applicable U.S. DOT Common Rule. Records pertaining to its Award, the accompanying Underlying Agreement, and any Amendments thereto must be retained from the day the Underlying Agreement was signed by the authorized FTA official through the course of the Award, the accompanying Underlying Agreement, and any Amendments thereto until three years after the Recipient has submitted its last or final expenditure report, and other pending matters are closed.
- (c) *Access to Recipient and Third Party Participant Records.* The Recipient agrees, and assures that each Subrecipient, if any, will agree to:
 - (1) Provide, and require its Third Party Participants at each tier to provide, sufficient access to inspect and audit records and information related to its Award, the accompanying Underlying Agreement, and any Amendments thereto to the U.S. Secretary of Transportation or the Secretary’s duly authorized representatives, to the Comptroller General of the United States, and the Comptroller General’s duly authorized representatives, and to the Recipient and each of its Subrecipients;
 - (2) Permit those individuals listed above to inspect all work and materials related to its Award, and to audit any information related to its Award under the control of the Recipient or Third Party Participant within books, records, accounts, or other locations; and
 - (3) Otherwise comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the applicable U.S. DOT Common Rules.
- (d) *Access to the Sites of Performance.* The Recipient agrees to permit, and to require its Third Party Participants to permit, FTA to have access to the sites of performance of its Award, the accompanying

Underlying Agreement, and any Amendments thereto, and to make site visits as needed in compliance with the U.S. DOT Common Rules.

- (e) *Closeout*. Closeout of the Award does not alter the record retention or access requirements of this section of this Master Agreement.

3.G – Federal Changes

Application of Federal, State, and Local Laws, Regulations, Requirements, and Guidance. The Recipient agrees to comply with all applicable federal requirements and follow applicable federal guidance. All standards or limits are minimum requirements when those standards or limits are included in the Recipient's Underlying Agreement or this Master Agreement. At the time the FTA official awards federal assistance to the Recipient in support of the Underlying Agreement, the federal requirements and guidance that apply then may be modified from time to time, and will apply to the Recipient or the accompanying Underlying Agreement, except as FTA determines otherwise in writing.

12 – Civil Rights

- (c) *Nondiscrimination – Title VI of the Civil Rights Act*. The Recipient agrees to, and assures that each Third Party Participant will:
 - (1) Prohibit discrimination based on race, color, or national origin,
 - (2) Comply with:
 - (i) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq.;
 - (ii) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 C.F.R. part 21; and
 - (iii) Federal transit law, specifically 49 U.S.C. § 5332; and
 - (3) Follow:
 - (i) The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance;
 - (ii) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3; and
 - (iii) All other applicable federal guidance that may be issued.
- (d) *Equal Employment Opportunity*.
 - (1) *Federal Requirements and Guidance*. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin, and:
 - (i) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.;
 - (ii) Facilitate compliance with Executive Order No. 11246, “Equal Employment Opportunity” September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs;
 - (iii) Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement;
 - (iv) FTA Circular 4704.1 “Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients;” and
 - (v) Follow other federal guidance pertaining to EEO laws, regulations, and requirements, and prohibitions against discrimination on the basis of disability.
 - (2) *Specifics*. The Recipient agrees to, and assures that each Third Party Participant will:
 - (i) *Affirmative Action*. If required to do so by U.S. DOT regulations (49 C.F.R. part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), take affirmative action that includes, but is not limited to:
 - (A) Recruitment advertising, recruitment, and employment;
 - (B) Rates of pay and other forms of compensation;
 - (C) Selection for training, including apprenticeship, and upgrading; and
 - (D) Transfers, demotions, layoffs, and terminations; but
 - (ii) *Indian Tribe*. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of “Employer;” and
 - (3) *Equal Employment Opportunity Requirements for Construction Activities*. Comply, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), with:
 - (i) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. chapter 60; and

- (ii) Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note (30 Fed. Reg. 12319, 12935), as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.
- (h) *Nondiscrimination on the Basis of Disability*. The Recipient agrees to comply with the following federal prohibitions against discrimination based on disability:
 - (1) Federal laws, including:
 - (i) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination based on disability in the administration of federally assisted Programs, Projects, or activities;
 - (ii) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:
 - (A) For FTA Recipients generally, Titles I, II, and III of the ADA apply; but
 - (B) For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of "employer;"
 - (iii) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities;
 - (iv) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
 - (v) Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.
 - (2) Federal regulations and guidance, including:
 - (i) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37;
 - (ii) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27;
 - (iii) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38;
 - (iv) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39;
 - (v) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35;
 - (vi) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36;
 - (vii) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630;
 - (viii) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, subpart F;
 - (ix) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194;
 - (x) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609;
 - (xi) FTA Circular 4710.1, "Americans with Disabilities Act: Guidance;" and
 - (xii) Other applicable federal civil rights and nondiscrimination regulations and guidance.

Incorporation of FTA Terms – 16.a.

- (a) *Federal Laws, Regulations, Requirements, and Guidance*. The Recipient agrees:
 - (1) To comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its third party procurements;
 - (2) To comply with the applicable U.S. DOT Common Rules; and
 - (3) To follow the most recent edition and any revisions of FTA Circular 4220.1, "Third Party Contracting Guidance," to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

Energy Conservation – 26.j

- (i) *Energy Conservation*. The Recipient agrees to, and assures that its Subrecipients will, comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

Applicable to Awards exceeding \$10,000

Section 11. Right of the Federal Government to Terminate.

- (a) *Justification.* After providing written notice to the Recipient, the Recipient agrees that the Federal Government may suspend, suspend then terminate, or terminate all or any part of the federal assistance for the Award if:
- (1) The Recipient has failed to make reasonable progress implementing the Award;
 - (2) The Federal Government determines that continuing to provide federal assistance to support the Award does not adequately serve the purposes of the law authorizing the Award; or
 - (3) The Recipient has violated the terms of the Underlying Agreement, especially if that violation would endanger substantial performance of the Underlying Agreement.
- (b) *Financial Implications.* In general, termination of federal assistance for the Award will not invalidate obligations properly incurred before the termination date to the extent that those obligations cannot be canceled. The Federal Government may recover the federal assistance it has provided for the Award, including the federal assistance for obligations properly incurred before the termination date, if it determines that the Recipient has misused its federal assistance by failing to make adequate progress, failing to make appropriate use of the Project property, or failing to comply with the Underlying Agreement, and require the Recipient to refund the entire amount or a lesser amount, as the Federal Government may determine including obligations properly incurred before the termination date.
- (c) *Expiration of the Period of Performance.* Except for a Full Funding Grant Agreement, expiration of any period of performance established for the Award does not, by itself, constitute an expiration or termination of the Award; FTA may extend the period of performance to assure that each Formula Project or related activities and each Project or related activities funded with “no year” funds can receive FTA assistance to the extent FTA deems appropriate.

Applicable to Awards exceeding \$25,000

From Section 16. Procurement

- (a) *Debarment and Suspension.* The Recipient agrees to the following:
- (1) It will comply with the following requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200.
 - (2) It will not enter into any arrangement to participate in the development or implementation of the Underlying Agreement with any Third Party Participant that is debarred or suspended except as authorized by:
 - (i) U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200;
 - (ii) U.S. OMB regulatory guidance, “Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180, including any amendments thereto;
 - (iii) Executive Order No. 12549, “Debarment and Suspension of Participants in Federal Programs,” February 18, 1986, 31 U.S.C. § 6101 note, as amended by Executive Order No. 12689, “Debarment and Suspension,” August 16, 1989 31 U.S.C. § 6101 note; and
 - (iv) Other applicable federal laws, regulations, requirements, or guidance regarding participation with debarred or suspended Recipients or Third Party Participants.
 - (3) It will review the U.S. GSA “System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” if required by U.S. DOT regulations, 2 C.F.R. part 1200.
 - (4) If the Recipient suspends, debar, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the:
 - (i) FTA Regional Counsel for the Region in which the Recipient is located or implements the Underlying Agreement;
 - (ii) FTA Headquarters Manager that administers the Grant or Cooperative Agreement; or
 - (iii) FTA Chief Counsel.

Applicable to Awards exceeding the simplified acquisition threshold (\$100,000-see Note)

Note: Applicable when tangible property or construction will be acquired

Section 15. Preference for United States Products and Services.

Except as the Federal Government determines otherwise in writing, the Recipient agrees to comply with FTA’s U.S. domestic preference requirements and follow federal guidance, including:

- (a) *Buy America.* The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, “Buy America Requirements,” 49 C.F.R. part 661, to the extent consistent with 49 U.S.C. § 5323(j);

- (b) *Cargo Preference–Use of United States-Flag Vessels.* The shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels,” 46 C.F.R. part 381; and
- (c) *Fly America.* The air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, “Use of United States Flag Air Carriers,” 41 C.F.R. §§ 301-10.131 – 301-10.143.

Section 39. Disputes, Breaches, Defaults, or Other Litigation.

- (a) *FTA Interest.* FTA has a vested interest in the settlement of any violation of federal law, regulation, or requirement, or any disagreement involving the Award, the accompanying Underlying Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.
- (b) *Notification to FTA; Flow Down Requirement.* If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.
 - (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
 - (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
 - (3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.
- (c) *Federal Interest in Recovery.* The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the Recipient may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Recipient receives FTA’s prior written concurrence.
- (d) *Enforcement.* The Recipient must pursue its legal rights and remedies available under any third party agreement or any federal, state, or local law or regulation.

Applicable to Awards exceeding \$100,000 by Statute

From Section 4. Ethics, Political Activity, and Certain Criminal Activity.

- (a) *Lobbying Restrictions.* The Recipient agrees that neither it nor any Third Party Participant will use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the Underlying Agreement, including any extension or modification, according to the following:
 - (1) *Laws, Regulations, Requirements, and Guidance.* This includes:
 - (i) The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended;
 - (ii) U.S. DOT regulations, “New Restrictions on Lobbying,” 49 C.F.R. part 20, to the extent consistent with 31 U.S.C. § 1352, as amended; and
 - (iii) Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature; and

- (2) *Exception.* If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Recipient's or Subrecipient's proper official channels.

Clean Air and Clean Water - From 16(e.):

- (7) *Clean Air Act (42 U.S.C. §§ 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 – 1388), as amended.* Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 – 1388). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Applicable with the Transfer of Property or Persons

Section 15. Preference for United States Products and Services.

Except as the Federal Government determines otherwise in writing, the Recipient agrees to comply with FTA's U.S. domestic preference requirements and follow federal guidance, including:

- (a) Buy America. The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with 49 U.S.C. § 5323(j);
- (b) Cargo Preference—Use of United States-Flag Vessels. The shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 C.F.R. part 381; and
- (c) Fly America. The air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 – 301-10.143.

Applicable to Construction Activities

Section 24. Employee Protections.

- a. Awards Involving Construction. The Subrecipient agrees to comply and assures that each Third Party Participant will comply with all federal laws, regulations, and requirements providing protections for construction employees involved in each Project or related activities with federal assistance provided through the Agreement, including the:
 - (1) Prevailing Wage Requirements of:
 - (a) Federal transit laws, specifically 49 U.S.C. § 5333(a), (FTA's "Davis-Bacon Related Act"),
 - (b) The Davis-Bacon Act, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147, and
 - (c) U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.
 - (2) Wage and Hour Requirements of:
 - (a) Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and
 - (b) U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.
 - (3) "Anti-Kickback" Prohibitions of:
 - (a) Section 1 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874,
 - (b) Section 2 of the Copeland "Anti-Kickback" Act, as amended, 40 U.S.C. § 3145, and
 - (c) U.S. DOL regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States," 29 C.F.R. part 3.
 - (4) Construction Site Safety of:
 - (a) Section 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3704, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and
 - (b) U.S. DOL regulations, "Recording and Reporting Occupational Injuries and Illnesses," 29 C.F.R. part 1904; "Occupational Safety and Health Standards," 29 C.F.R. part 1910; and "Safety and Health Regulations for Construction," 29 C.F.R. part 1926.

From Section 16

- (e) *Required Clauses in Third Party Contracts.* In addition to other applicable provisions of federal law, regulations, requirements, and guidance, all third party contracts made by the Recipient under the Federal award must contain provisions covering the following, as applicable:
- (4) *Davis-Bacon Act, as amended (40 U.S.C. §§ 3141 – 3148).* When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141 – 3144, and 3146 – 3148) as supplemented by Department of Labor regulations (29 C.F.R. part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of a public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency.
- (5) *Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701 – 3708).* Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. part 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- (o) *Bonding.* The Recipient agrees to comply with the following bonding requirements and restrictions as provided in federal regulations and guidance:
- (1) *Construction.* As provided in federal regulations and modified by FTA guidance, for each Project or related activities implementing the Underlying Agreement that involve construction, it will provide bid guarantee bonds, contract performance bonds, and payment bonds.

From Section 23

- (b) *Seismic Safety.* The Recipient agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. § 7701 et seq., and U.S. DOT regulations, “Seismic Safety,” 49 C.F.R. part 41, specifically, 49 C.F.R. § 41.117.

Section 12 Civil Rights d.3

- (3) *Equal Employment Opportunity Requirements for Construction Activities.* Comply, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), with:
- (i) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. chapter 60; and
- (ii) Executive Order No. 11246, “Equal Employment Opportunity in Federal Employment,” September 24, 1965, 42 U.S.C. § 2000e note (30 Fed. Reg. 12319, 12935), as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

Applicable to Nonconstruction Activities

From Section 24. Employee Protections

- (b) *Awards Not Involving Construction.* The Recipient agrees to comply and assures that each Third Party Participant will comply with all federal laws, regulations, and requirements providing wage and hour

protections for nonconstruction employees, including Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. part 5.

Applicable to Transit Operations

From Section 24. Employee Protections

- (d) *Public Transportation Employee Protective Arrangements.* As a condition of award of federal assistance appropriated or made available for FTA programs involving public transportation operations, the Recipient agrees to comply and assures that each Third Party Participant will comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):
 - a. *U.S. DOL Certification.* When its Award, the accompanying Underlying Agreement, or any Amendments thereto involve public transportation operations and are supported with federal assistance appropriated or made available for 49 U.S.C. §§ 5307 – 5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, 5338(b), or 5339, or former 49 U.S.C. §§ 5308, 5309, 5312, or other provisions of law as required by the Federal Government, U.S. DOL must provide a certification of employee protective arrangements before FTA may provide federal assistance for that Award. The Recipient agrees that the certification issued by U.S. DOL is a condition of the Underlying Agreement and that the Recipient must comply with its terms and conditions.
 - b. *Special Warranty.* When its Underlying Agreement involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The Recipient agrees that its U.S. DOL Special Warranty is a condition of the Underlying Agreement and the Recipient must comply with its terms and conditions.
 - c. *Special Arrangements for Underlying Agreements for Federal Assistance Authorized under 49 U.S.C. § 5310.* The Recipient agrees, and assures that any Third Party Participant providing public transportation operations will agree, that although pursuant to 49 U.S.C. § 5310, and former 49 U.S.C. §§ 5310 or 5317, FTA has determined that it was not “necessary or appropriate” to apply the conditions of 49 U.S.C. § 5333(b) to any Subrecipient participating in the program to provide public transportation for seniors (elderly individuals) and individuals with disabilities, FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate.

Section 28. Charter Service.

- (a) *Prohibitions.* The Recipient agrees that neither it nor any Third Party Participant involved in the Award will engage in charter service, except as permitted under federal transit laws, specifically 49 U.S.C. § 5323(d), (g), and (r), FTA regulations, “Charter Service,” 49 C.F.R. part 604, any other federal Charter Service regulations, federal requirements, or federal guidance.
- (b) *Exceptions.* Apart from exceptions to the Charter Service restrictions in FTA’s Charter Service regulations, FTA has established the following additional exceptions to those restrictions:
 - (1) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with federal assistance appropriated or made available for 49 U.S.C. § 5307 to support a Job Access and Reverse Commute (JARC)- type Project or related activities that would have been eligible for assistance under repealed 49 U.S.C. § 5316 in effect in Fiscal Year 2012 or a previous fiscal year, provided that the Recipient uses that federal assistance for FTA program purposes only; and
 - (2) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with the federal assistance appropriated or made available for 49 U.S.C. § 5310 to support a New Freedom-type Project or related activities that would have been eligible for federal assistance under repealed 49 U.S.C. § 5317 in effect in Fiscal Year 2012 or a previous fiscal year, provided the Recipient uses that federal assistance for FTA program purposes only.
- (c) *Violations.* If it or any Third Party Participant engages in a pattern of violations of FTA’s Charter Service regulations, FTA may require corrective measures and remedies, including withholding an amount of federal assistance as provided in FTA’s Charter Service regulations, 49 C.F.R. part 604, appendix D, or barring it or the Third Party Participant from receiving federal assistance provided in 49 U.S.C. chapter 53, 23 U.S.C. § 133, or 23 U.S.C. § 142.

Section 32. Public Transportation Safety.

- (a) *Public Transportation Agency Safety Program.* The Recipient agrees to comply with applicable federal laws, regulations, and requirements and follow applicable guidance that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329.
- (b) *State Safety Oversight of Rail Fixed Guideway Public Transportation Systems.* For a Recipient that is a state with a rail fixed guideway public transportation system, the Recipient agrees as follows:
 - (1) *Laws.* It will comply with State Safety Oversight requirements under 49 U.S.C. § 5329(e) and implementing regulations at 49 C.F.R. part 674, or 49 U.S.C. § 5330 and implementing regulations at 49 C.F.R. part 659.
 - (2) *State Safety Oversight Program.* A Recipient must have a State Safety Oversight Program certified under 49 C.F.R. part 674 no later than April 15, 2019.
 - (3) *Regulations.* The Recipient will comply with FTA regulations, “State Safety Oversight,” 49 C.F.R. part 659, until the Recipient has a certified State Safety Oversight Program under 49 C.F.R. part 674. A Recipient that has a certified State Safety Oversight Program will comply with the regulations at 49 C.F.R. part 674.

Section 29. School Bus Operations.

- (a) *Prohibitions.* The Recipient agrees that neither it nor any Third Party Participant that is participating in its Award will engage in school bus operations exclusively for the transportation of students or school personnel in competition with private school bus operators, except as permitted by federal transit laws, 49 U.S.C. § 5323(f) or (g), FTA regulations, “School Bus Operations,” 49 C.F.R. part 605, and any other applicable federal “School Bus Operations” laws, regulations, requirements, or applicable federal guidance.
- (b) *Violations.* If a Recipient or any Third Party Participant has operated school bus service in violation of FTA’s School Bus laws, regulations, or requirements, FTA may require the Recipient or Third Party Participant to take such remedial measures as FTA considers appropriate, or bar the Recipient or Third Party Participant from receiving federal transit assistance.

Section 35. Substance Abuse.

- (a) *Drug-Free Workplace.* The Recipient agrees to:
 - (1) Comply with the Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. § 8103 et seq.;
 - (2) Comply with U.S. DOT regulations, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 49 C.F.R. part 32; and
 - (3) Follow and facilitate compliance with U.S. OMB regulatory guidance, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 2 C.F.R. part 182, particularly where the U.S. OMB regulatory guidance supersedes comparable provisions of 49 C.F.R. part 32.
- (b) *Alcohol Misuse and Prohibited Drug Use.*
 - (1) *Requirements.* The Recipient agrees to comply and assures that its Third Party Participants will comply with:
 - (i) Federal transit laws, specifically 49 U.S.C. § 5331;
 - (ii) FTA regulations, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” 49 C.F.R. part 655; and
 - (iii) Applicable provisions of U.S. DOT regulations, “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” 49 C.F.R. part 40.
 - (2) *Remedies for Non-Compliance.* The Recipient agrees that if FTA determines that the Recipient or a Third Party Participant receiving federal assistance under 49 U.S.C. chapter 53 is not in compliance with 49 C.F.R. part 655, the Federal Transit Administrator may bar that Recipient or Third Party Participant from receiving all or a portion of the federal transit assistance for public transportation it would otherwise receive.

Applicable to Planning, Research, Development, and Documentation Projects

Section 17. Patent Rights.

- (a) *General.* The Recipient agrees that:
 - (1) Depending on the nature of the Underlying Agreement, the Federal Government may acquire patent rights when the Recipient or Third Party Participant produces a patented or patentable invention, improvement, or discovery;
 - (2) The Federal Government’s rights arise when the patent or patentable information is conceived or reduced to practice with federal assistance provided through the Underlying Agreement; or

- (3) When a patent is issued or patented information becomes available as described in the preceding section 17(a)(2) of this Master Agreement, the Recipient will notify FTA immediately and provide a detailed report satisfactory to FTA.
- (b) *Federal Rights*. The Recipient agrees that:
 - (1) Its rights and responsibilities and each Third Party Participant's rights and responsibilities in that federally assisted invention, improvement, or discovery will be determined as provided in applicable federal laws, regulations, requirements, and guidance, including any waiver thereof; and
 - (2) Unless the Federal Government determines otherwise in writing, irrespective of its status or the status of any Third Party Participant as a large business, small business, state government, state instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, or individual, the Recipient will transmit the Federal Government's patent rights to FTA, as specified in 35 U.S.C. § 200 et seq., and U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. part 401.
- (c) *License Fees and Royalties*. Consistent with the applicable U.S. DOT Common Rules, the Recipient agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Underlying Agreement are program income, and must be used in compliance with applicable federal requirements.

Section 18. Rights in Data and Copyrights.

- (a) *Definition of "Subject Data."* As used in this section, "subject data" means recorded information, whether or not copyrighted, that is delivered or specified to be delivered as required by the Underlying Agreement. Examples of subject data include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Underlying Agreement.
- (b) *General Federal Restrictions*. The following restrictions apply to all subject data first produced in the performance of the Underlying Agreement:
 - (1) Prohibitions. The Recipient may not publish or reproduce any subject data, in whole, in part, or in any manner or form, or permit others to do so.
 - (2) Exceptions. The prohibitions do not apply to publications or reproductions for the Recipient's own internal use, an institution of higher learning, the portion of subject data that the Federal Government has previously released or approved for release to the public, or the portion of data that has the Federal Government's prior written consent for release.
- (c) *Federal Rights in Data and Copyrights*. The Recipient agrees that:
 - (1) General. It must provide a license to its subject data to the Federal Government that is royalty-free, non-exclusive, and irrevocable. The Federal Government's license must permit the Federal Government to reproduce, publish, or otherwise use the subject data or permit other entities or individuals to use the subject data provided those actions are taken for Federal Government purposes; and
 - (2) U.S. DOT Public Access Plan – Copyright License. The Recipient grants to U.S. DOT a worldwide, non-exclusive, non-transferable, paid-up, royalty-free copyright license, including all rights under copyright, to any and all Publications and Digital Data Sets as such terms are defined in the U.S. DOT Public Access plan, resulting from scientific research funded either fully or partially by this funding agreement. The Recipient herein acknowledges that the above copyright license grant is first in time to any and all other grants of a copyright license to such Publications and/or Digital Data Sets, and that U.S. DOT shall have priority over any other claim of exclusive copyright to the same.
- (d) *Special Federal Rights in Data for Research, Development, Demonstration, Deployment, Technical Assistance, and Special Studies Programs*. In general, FTA's purpose in providing federal assistance for a research, development, demonstration, deployment, technical assistance, or special studies program is to increase transportation knowledge, rather than limit the benefits of the Award to the Recipient and its Third Party Participants. Therefore, the Recipient agrees that:
 - (1) *Publicly Available Report*. When an Award providing federal assistance for any of the programs described above is completed, it must provide a report of the Underlying Agreement that FTA may publish or make available for publication on the Internet.
 - (2) *Other Reports*. It must provide other reports related to the Award that FTA may request.
 - (3) *Availability of Subject Data*. FTA may make available its copyright license to the subject data, and a copy of the subject data to any FTA Recipient or any Third Party Participant at any tier, except as the Federal Government determines otherwise in writing.

- (4) *Identification of Information.* It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA.
- (5) *Incomplete.* If the Award is not completed for any reason whatsoever, all data developed with federal assistance for the Award becomes subject data and must be delivered as the Federal Government may direct.
- (6) *Exception.* This section does not apply to an adaptation of any automatic data processing equipment or program that is both for the Recipient's use, and acquired with FTA capital program assistance.
- (e) *License Fees and Royalties.* Consistent with the applicable U.S. DOT Common Rules, the Recipient agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Underlying Agreement are program income, and must be used in compliance with federal applicable requirements.
- (f) *Hold Harmless.* Upon request by the Federal Government, the Recipient agrees that if it intentionally violates any proprietary rights, copyrights, or right of privacy, and if its violation under the preceding section occurs from any of the publication, translation, reproduction, delivery, use or disposition of subject data, then it will indemnify, save, and hold harmless the Federal Government against any liability, including costs and expenses of the Federal Government's officers, employees, and agents acting within the scope of their official duties. The Recipient will not be required to indemnify the Federal Government for any liability described in the preceding sentence, if the violation is caused by the wrongful acts of federal officers, employees or agents, or if indemnification is prohibited or limited by applicable state law.
- (g) *Restrictions on Access to Patent Rights.* Nothing in this section of this Master Agreement pertaining to rights in data either implies a license to the Federal Government under any patent, or may be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.
- (h) *Data Developed Without Federal Assistance or Support.* The Recipient agrees that in certain circumstances it may need to provide to FTA data developed without any federal assistance or support. Nevertheless, this section generally does not apply to data developed without federal assistance, even though that data may have been used in connection with the Award. The Recipient agrees that the Federal Government will not be able to protect data developed without federal assistance from unauthorized disclosure unless that data is clearly marked "Proprietary," or "Confidential."
- (i) *Requirements to Release Data.* The Recipient understands and agrees that the Federal Government may be required to release data and information that the Recipient submits to the Federal Government as required under:
 - (1) The Freedom of Information Act (FOIA), 5 U.S.C. § 552;
 - (2) The U.S. DOT Common Rules;
 - (3) The U.S. DOT Public Access Plan, which provides that the Recipient agrees to satisfy the reporting and compliance requirements as set forth in the U.S. DOT Public Access plan, including, but not limited to, the submission and approval of a Data Management Plan, the use of Open Researcher and Contributor ID (ORCID) numbers, the creation and maintenance of a Research Project record in the Transportation Research Board's (TRB) Research in Progress (RiP) database, and the timely and complete submission of all required publications and associated digital data sets as such terms are defined in the DOT Public Access plan. Additional information about how to comply with the requirements can be found at <http://ntl.bts.gov/publicaccess/howto comply.html>; or
 - (4) Other federal laws, regulations, requirements, and guidance concerning access to records pertaining to the Award, the accompanying Underlying Agreement, and any Amendments thereto.

Miscellaneous Special Requirements

From Section 12. Civil Rights.

- a. Disadvantaged Business Enterprise (and Prompt Payment and Return of Retainage).
 - (e) *Disadvantaged Business Enterprise.* To the extent authorized by applicable federal laws, regulations, or requirements, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Underlying Agreement as follows:
 - a. *Statutory and Regulatory Requirements.* The Recipient agrees to comply with:
 - i. Section 1101(b) of the FAST Act, 23 U.S.C. § 101 note;
 - ii. U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26; and
 - iii. Federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement.

- b. *DBE Program Requirements.* A Recipient that receives planning, capital and/or operating assistance and that will award prime third party contracts exceeding \$250,000 in a federal fiscal year must have a DBE program that is approved by FTA and meets the requirements of 49 C.F.R. part 26.
- c. *Special Requirements for a Transit Vehicle Manufacturer (TVM).* The Recipient agrees that:
 - i. *TVM Certification.* Each TVM, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26; and
 - ii. *Reporting TVM Awards.* Within 30 days of any third party contract award for a vehicle purchase, the Recipient must submit to FTA the name of the TVM contractor and the total dollar value of the third party contract, and notify FTA that this information has been attached in TrAMS. The Recipient must also submit additional notifications if options are exercised in subsequent years to ensure that the TVM is still in good standing.
- d. *Assurance.* As required by 49 C.F.R. § 26.13(a):
 - i. *Recipient Assurance.* The Recipient agrees and assures that:
 - 1. It must not discriminate based on race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted contract, or in the administration of its DBE program or the requirements of 49 C.F.R. part 26;
 - 2. It must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts;
 - 3. Its DBE program, as required under 49 C.F.R. part 26 and as approved by U.S. DOT, is incorporated by reference and made part of the Underlying Agreement; and
 - 4. Implementation of its DBE program approved by U.S. DOT is a legal obligation and failure to carry out its terms shall be treated as a violation of this Master Agreement.
 - ii. *Subrecipient/Third Party Contractor/Third Party Subcontractor Assurance.* The Recipient agrees and assures that it will include the following assurance in each subagreement and third party contract it signs with a Subrecipient or Third Party Contractor and agrees to obtain the agreement of each of its Subrecipients, Third Party Contractors, and Third Party Subcontractors to include the following assurance in every subagreement and third party contract it signs:
 - 1. The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must not discriminate based on race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26;
 - 2. The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable;
 - 3. Failure by the Subrecipient and any of its Third Party Contractors or Third Party Subcontractors to carry out the requirements of this subparagraph 12.e(4)(b) is a material breach of this subagreement, third party contract, or third party subcontract, as applicable; and The following remedies, or such other remedy as the Recipient deems appropriate, include, but are not limited to, withholding monthly progress payments, assessing sanctions, liquidated damages, and/or disqualifying the Subrecipient, Third Party Contractor, or Third Party Subcontractor from future bidding as non-responsible.
- e. *Remedies.* Upon notification to the Recipient of its failure to carry out its approved program, FTA or U.S. DOT may impose sanctions as provided for under 49 C.F.R. part 26, and, in appropriate cases, refer the matter for enforcement under either or both 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.

From Section 12. Civil Rights.

- (h) *Nondiscrimination on the Basis of Disability.* The Recipient agrees to comply with the following federal prohibitions against discrimination based on disability:
 - a. Federal laws, including:
 - i. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination based on disability in the administration of federally assisted Programs, Projects, or activities;
 - ii. The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:
 - A. For FTA Recipients generally, Titles I, II, and III of the ADA apply; but

- B. For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of “employer;”
- iii. The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities;
- iv. Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
- v. Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.
- b. Federal regulations and guidance, including:
 - i. U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. part 37;
 - ii. U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. part 27;
 - iii. Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. part 1192 and 49 C.F.R. part 38;
 - iv. U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 C.F.R. part 39;
 - v. U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. part 35;
 - vi. U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. part 36;
 - vii. U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630;
 - viii. U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 C.F.R. part 64, subpart F;
 - ix. U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194;
 - x. FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609;
 - xi. FTA Circular 4710.1, “Americans with Disabilities Act: Guidance;” and
 - xii. Other applicable federal civil rights and nondiscrimination regulations and guidance.

Section 16. Procurement. For Assignability

- (a) *Federal Laws, Regulations, Requirements, and Guidance.* The Recipient agrees:
 - a. To comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its third party procurements;
 - b. To comply with the applicable U.S. DOT Common Rules; and
 - c. To follow the most recent edition and any revisions of FTA Circular 4220.1, “Third Party Contracting Guidance,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

State Requirements

Section 37. Special Notification Requirements for States.

- (a) *Types of Information.* To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
 - (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
 - (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
 - (3) The amount of federal assistance FTA has provided for a State Program or Project.
- (b) *Documents.* The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

EXHIBIT E, VERIFICATION OF PAYMENT

This checklist is to assist the Subrecipient in preparation of its billing packets to CDOT. This checklist is provided as guidance and is subject to change by CDOT. CDOT shall provide notice of any such changes to Subrecipient. All items may not apply to your particular entity. CDOT's goal is to reimburse Subrecipients as quickly as possible and a well organized and complete billing packet helps to expedite payment.

☐ **Verification of Payment –**

- ✓ General Ledger Report must have the following:
 - Identify check number or EFT number
 - If no check number is available, submit Accounts Payable Distribution report with the General Ledger
 - In-Kind (must be pre-approved by CDOT) and/or cash match
 - Date of the report
 - Accounting period
 - Current period transactions
 - Account coding for all incurred expenditures.
- ✓ If no General Ledger Report, all of the following are acceptable
 - copies of checks
 - check registers
 - paycheck stub showing payment number and:
 - showing the amount paid, the check number or electronic funds transfer (EFT) and the date paid.
- ✓ CDOT needs to ensure that expenditures incurred by the local agencies have been paid by Party **before** CDOT is invoiced by Party.
- ✓ Payment amounts should match the amount requested on the reimbursement. Additional explanation and documentation is required for any variances.

☐ **In-Kind or Cash Match – If an entity wishes to use these types of match, they must be approved by CDOT prior to any work taking place.**

- ✓ If in-kind or cash match is being used for the local match, the in-kind or cash match portion of the project must be included in the project application and the statement of work attached to the agreement or purchase order. FTA does not require pre-approval of in-kind or cash match, but CDOT does.
- ✓ General ledger must also show the in-kind and/or cash match.

☐ **Indirect costs – If an entity wishes to use indirect costs, the rate must be approved by CDOT prior to applying it to the reimbursements.**

- ✓ If indirect costs are being requested, an approved indirect letter from CDOT or your cognizant agency for indirect costs, as defined in 2 CCR §200. 19, must be provided. The letter must state what indirect costs are allowed, the approved rate and the time period for the approval. The indirect cost plan must be reconciled annually and an updated letter submitted each year thereafter.

☐ **Fringe Benefits- Considered part of the Indirect Cost Rate and must be reviewed and approved prior to including these costs in the reimbursements.**

- ✓ Submit an approval letter from the cognizant agency for indirect costs, as defined in 2 CCR §200. 19, that verifies fringe benefit or
- ✓ Submit the following fringe benefit rate proposal package to CDOT Audit Division:
 - Copy of Financial Statement
 - Personnel Cost Worksheet
 - State of Employee Benefits
 - Cost Policy Statement.

Attachment 4-4. Sample Personal Services RFP



COLORADO

Department of Transportation

Center for Procurement and Contract Services

SOLICITATION AND RESPONSE COVER SHEET

HAA (BID NUMBER), TITLE

Per the attached specifications, terms and conditions.

INSTRUCTIONS: Offeror (bidder) must complete this cover sheet, and attach it with their proposal. **Offerors are urged to read the solicitation document thoroughly before submitting a proposal.**

Submit Proposal to:	CDOT Supplier Self Service (SuSS) Portal SuSS Portal Help Desk 303-757-9848	Purchasing Agent:	Name, Phone, Email
Due Date:	mm/dd/yyyy, Xxxday	Time Due:	2:00 PM Mountain Time

OFFEROR INFORMATION

Offeror F.E.I.N.:	_____		
DUNS Number	_____		
Delivery Date:	_____		
Authorized Signature:	_____		
<small>Signature acknowledges acceptance of all terms and conditions of the solicitation.</small>	_____		
Payment Terms:	_____		
<small>(Minimum of Net 30)</small>	_____		
Typed/Printed Name and Title:	_____		
Legal Company Name:	_____		
Doing Business As:	_____		
Address:	_____		
City:	State:	Zip:	
Phone Number:	Fax Number:		
Contact for Clarifications:	_____		
Title:	_____		
Phone Number:	Fax Number:		
E-mail Address:	_____		

HAA (BID NUMBER), TITLE

CDOT Supplier Self Service (SuSS) Portal and Registration: This solicitation is published using the SuSS Portal. Suppliers must be registered on the SuSS Portal in order to download solicitation documents and information (including any amendments or modifications) and to be considered responsive at the time of submission of the response. **Interested suppliers who have not registered in SuSS Portal must initiate registration immediately to ensure a responsive bid response.** Information may be accessed through the CDOT public web link: www.codot.gov/business/procurement-and-contract-services Registration assistance is provided by our Help Desk at 303-757-9848 or by email: dot_hq_srm_help@state.co.us

Offeror to answer and acknowledges by its signature above:

- Confirm that you are aware that the award notice will be published on [CDOT website](#): ____ Yes
- My company is registered on CDOT's SuSS Portal: ____ Yes / ____ No
- Proprietary Information: is in my response and as segregated pages: ____ Yes / ____ No
- Registered with the Colorado Secretary of State ____ No / ____ Yes, and # _____
- Offeror proposes using Subcontractors for this project: ____ Yes / ____ No
- Offeror has reviewed Modifications made to this RFP – list the Modification # last reviewed: _____
- If claiming SDVOSB (Service Disabled Veteran Owned Small Business) attach proof of certification: ____ Yes / ____ NA
- Offeror has reviewed Section 1.19, Protested Solicitations and Awards: ____ Yes

Colorado Revised Statutes Title 24, Article 109, Entitlement to Cost, in part states: "When a protest is sustained administratively or upon administrative or judicial review and the protesting bidder or offeror should have been awarded the contract under the solicitation but, due to defect in the solicitation, was not, the protestor shall be entitled to the reasonable costs incurred in connection with the solicitation, including bid preparation costs. No other costs shall be permitted and reasonable costs shall not include attorney fees."

Please read this Request for Proposal (RFP) thoroughly before responding. Illegible responses may be rejected as non-responsive.

The Colorado Department of Transportation (CDOT) reserves the right to reject any and all proposals or parts thereof, and to waive informalities or irregularities. By submission of a proposal, proposer agrees to the State of Colorado terms and conditions.

By submission of a proposal, bid and/or quote, proposer agrees as follows:

- Except as replaced, modified, or supplemented by CDOT for this solicitation, all items in the State of Colorado Solicitation Instructions/Terms and Conditions are considered part of, and are incorporated by reference into this document.
- Proposer testifies that bid prices were arrived at independently and there was no collusion involved.
- The Bidder/Proposer/Vendor guarantees to the State that they understand and agree to the terms and conditions of this RFP and that they will not default from performance by virtue of a mistake or misunderstanding. Proposers shall seek clarification from CDOT of any specifications, terms and/or conditions that they determine to be unclear. The failure of a proposer to seek clarification may be deemed a waiver of any such clarification.
- If applicable, low tie bids/proposals shall be decided in accordance with the provision of C.R.S. Section 24-103-202.5, as it currently exists or is hereafter amended, which gives a preference to resident bidders. Any bidder who wishes to be considered a "resident bidder" for purposes of the tie bid procedure provided in C.R.S. Section 24-103-202.5 shall include with their bid, proof that they meet the definition of resident bidder as set forth in either C.R.S. Section 24-103-101(6)(a) or C.R.S. Section 24-103-101(6)(b).
- Pursuant to CRS 24-30-202.4 (as amended), the state controller may withhold debts owed to state agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 22, Title 39, CRS; (c) unpaid loans due to the student loan division of the Colorado Division of Higher Education; (d) owed amounts required to be paid to the unemployment compensation fund; and (e) other unpaid debts owing to the state or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

NOTE: Results will be posted on <https://www.codot.gov/business/procurement-and-contract-services/awards-1> or sent via postal system but will not be discussed by phone except as noted in the RFP document.

REQUEST FOR PROPOSAL THE COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE

SECTION 1 ADMINISTRATIVE INFORMATION

1.1 ISSUING OFFICE AND INQUIRIES:

This request for proposal is issued for the State of Colorado, the Colorado Department of Transportation, Center for Procurement and Contract Services.

Prospective proposers may make written inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after the date and time specified in the Schedule of Activities, Prospective proposer's inquiry deadline. All contacts regarding this RFP is to be directed to:

(name),
Purchasing Agent & Contract Administrator
Colorado Department of Transportation
Center for Procurement and Contract Services
4201 East Arkansas Avenue, Room 200
Denver, CO 80222
(email)

Phone: Fax:

Subject line of the e-mail shall clearly state "Questions for RFP [number]" to facilitate handling and distribution. Inquiries sent by fax will be accepted (fax number (303) 757-9669). An addendum responding to questions submitted regarding the RFP will be published on the Supplier Self Service (SuSS) portal.

1.2 PURPOSE:

The purpose of this Request for Proposal (RFP) is to obtain competitive bid proposals from qualified firms interested in providing _____.

This RFP provides prospective proposers with sufficient information to enable them to prepare and submit proposals for consideration by CDOT to satisfy the needs as outlined in this RFP's Statement of Work.

1.3	SCHEDULE OF ACTIVITIES:	DATE:	TIME (MST)
1.	RFP published on SuSS		N/A
2.	Prospective proposer's inquiry deadline (No questions accepted after this date)	Date	5:00 P.M.
3.	Response to proposer questions	Date	5:00 P.M.
4.	Proposal submission deadline	Date	2:00 P.M.
5.	Top consultants selected and notified of interview (<u>estimate</u>), if appropriate	Date	TBD
6.	Oral interviews with a short list of consultants (<u>estimate</u>), if required – week of	Date	TBD
7.	Firms selected (<u>estimate</u>)	Date	N/A
8.	Desired date of executed contract	Date	N/A

1.4 ELECTRONIC PROPOSAL SUBMISSION THROUGH SuSS:

Suppliers must upload their proposal to SuSS. CDOT procurement will distribute your uploaded proposal and any attachments to the evaluation panel.

1.5 AMENDMENTS TO RFP:

In the event it should be necessary to revise any portion of this RFP, addenda will be published on the SuSS. It is the proposer's responsibility to monitor the SuSS at the Internet site www.codot.gov/business/procurement-and-contract-services , and comply with all addenda to this RFP.

1.7 RESPONSE MATERIAL OWNERSHIP:

All material submitted regarding this RFP becomes the property of the State of Colorado. Proposals may be reviewed by any person after the "Notice of Intent to Make an Award" letter has been issued, subject to the terms of Section 24-72-201 et. seq., C.R.S., as amended, Public (open) Records.

1.8 PROPRIETARY INFORMATION:

All material submitted in response to this RFP will become public record and open to inspection after the Notice of Intent to Award notice is issued. Any material requested to be treated as proprietary or confidential must be clearly identified and easily separable from the rest of the proposal, *i.e.*, uploaded to SuSS in a separate file. Such a request must include the proposer's justification for the material to be treated as proprietary or confidential. The request will be reviewed and either approved or denied by the CDOT Purchasing Director. If denied, the proposer will have the opportunity to withdraw its entire proposal, or to remove the proprietary restrictions. **NEITHER COST NOR PRICING INFORMATION NOR A TOTAL PROPOSAL WILL BE CONSIDERED PROPRIETARY.** If any of the materials submitted by the Vendor to CDOT are clearly and prominently labeled trade secret, privileged information, or confidential commercial, financial, geological, or geophysical data by the Contractor, CDOT will endeavor to advise the Contractor of any request for the disclosure of such materials prior to making any such disclosure. Under no circumstances, however, will CDOT be responsible or liable to the Contractor or any other Person for the disclosure of any such labeled materials, whether the disclosure is required by law, by court order or occurs through inadvertence, mistake or negligence on the part of CDOT. CDOT will inform Vendor if a request for the information is made by a third party and will give Vendor a chance to defend against any action seeking the materials.

1.9 REJECTION OF PROPOSALS:

CDOT reserves the right to reject any or all proposals received in response to this RFP, or to cancel this RFP if it is in the best interest of the State to do so. Failure to furnish all information or to follow the proposal format requested in this RFP may disqualify the proposal. Any exceptions to the Statement of Work must be clearly identified in the proposal. Inclusion of exceptions does not guarantee acceptance by the State of such variation, and may instead lead to rejection of the proposal as non-responsive. (See further Section 1.12 of this RFP.)

1.10 INCURRING COSTS:

Notwithstanding the statute, CDOT is not liable for any costs incurred by proposers prior to issuance of a legally executed contract. All costs to prepare and submit a response to this solicitation shall be borne solely by the proposer.

1.11 EVALUATION CRITERIA:

An evaluation will be made by a committee selected to evaluate the merits of all proposals received according to the evaluation criteria defined herein (Section 3). The recommendations of this group will be forwarded to the Purchasing Director for approval.

1.11.1 Failure of the proposer to provide in his/her proposal any information requested in this RFP may result in disqualification of the proposal. It is the sole responsibility of the proposing individual or firm to ensure all information requested in the RFP is included.

1.11.2 During the evaluation process, discussions/interviews may be scheduled with proposers who submit proposals determined to be reasonably competitive for selection for award. It will be upon the recommendation of the evaluation committee if discussions/interviews for clarification are needed.

1.11.3 The sole objective of the evaluation committee will be to recommend the proposer(s) whose proposal(s) is/are most responsive to CDOT's needs within the available resources. The specifications within this RFP represent the minimum performance necessary for response.

1.11.4 Specific evaluation criteria are outlined in Section 3 of this RFP, entitled Evaluation Criteria.

1.12 ACCEPTANCE OF RFP TERMS:

A proposal submitted in response to the RFP shall constitute a binding offer. Acknowledgment of this condition shall be indicated by the autographic signature of the proposer, or an officer of the proposer, legally authorized to execute contractual obligations. A submission in response to the RFP acknowledges acceptance by the proposer of all terms and conditions including compensation, as set forth herein. Any exceptions and/or variations to the terms and conditions presented in the RFP may be submitted as part of the proposal, with each such exception and/or variation identified clearly and thoroughly. Failure to identify any exceptions and/or variations in the submitted proposal shall be deemed a waiver of any rights to subsequently modify the terms of performance, except as outlined or specified in the RFP, and may result in cancellation of the award and such vendor may be removed from future solicitations. Submission of a proposal containing exceptions and/or variations does not guarantee of acceptance of such variations by CDOT, and may instead lead to the rejection of the proposal as non-responsive if the requested variations are determined to be extensive or unreasonable, by the evaluation committee assigned to this RFP solicitation.

1.13 PROVISION FOR REQUIRED INSURANCE:

Award of a contract will be contingent upon the successful proposer submitting certificates of insurance in accordance with the provisions of the sample contract, **Attachment B**.

1.14 CONSULTANT CERTIFICATION:

Proposers must submit a signed Consultant Certification Form, CDOT Form #637, with their proposal, **Attachment A** to this RFP.

1.15 CONFLICT OF INTEREST:

By submission of a proposal, proposer agrees that, at the time of contracting, the proposer has no interest, direct or indirect, that would conflict in any manner or degree with the performance of the required services. The proposer shall further covenant that, in the performance of the contract, it shall not employ any person having any such known interest. Any firm affiliated or related to an employee of CDOT shall be ineligible to submit a proposal for the required services.

1.16 REQUEST FOR PROPOSAL:

The Request for Proposal Form - the cover page for this RFP - must be signed, by a person authorized to bind the proposer, and returned with the proposal.

1.17 AUDIT OF THE SELECTED PROPOSER:

Prior to final contract award, an audit may be conducted by the CDOT's External Audit Branch of the selected proposer. This audit will be for the purpose of ensuring that the selected firm is financially capable of performing the contract, that the cost information and prices quoted are reasonable, and that the selected proposer has adequate accounting practices to assure accurate tracking of contract costs.

Prior to final acceptance of the contract work, a closing audit of the proposer may be performed by the CDOT External Audit Branch. This final closeout audit will be performed upon completion of the contract to verify the accuracy of the billings and compliance with the contract provisions.

1.18 BUDGETED FUNDS:

The funds available for this solicitation are \$_____. OR CDOT is not disclosing the funds available for this solicitation at this time.

1.19 INTENT TO AWARD:

After a proposer is selected, an "Intent to Award" on <https://www.codot.gov/business/procurement-and-contract-services/awards-1> . After intent to award has been issued, interested parties may review any/all the proposals by making an appointment with:

(name),

HAA (BID NUMBER), TITLE

Purchasing Agent & Contract Administrator
Colorado Department of Transportation
Center for Procurement and Contract Services
4201 East Arkansas Avenue, Room 200
Denver, CO 80222
(email)
Phone: Fax:

1.20 PROTESTED SOLICITATIONS AND AWARDS:

Any actual or prospective proposer or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to a Procurement Official at dot_procurement@state.co.us. The protest shall be submitted in writing within ten (10) business days after such aggrieved person knows, or should have known, of the facts giving rise thereto. Protests received after the ten-business-day period shall not be considered.

The written protest shall include, as a minimum, the following:

- A. The name and address of the protestor;
- B. Appropriate identification of the procurement by bid, RFP, or award number;
- C. A statement of the reasons for the protest; and
- D. Any available exhibits, evidence or documents substantiating the protest.

1.21 CONTRACT:

CDOT has provided as **Attachment B a Sample Contract** that it expects to enter into with the successful proposer. **Although submittal of a proposal is agreement to the entire contract without exception, under certain circumstances CDOT may be agreeable to negotiating minor modifications to the Sample Contract. Any modifications requested must be submitted concurrently and clearly labeled as *Suggested Contract Exceptions* in the bid response. CDOT makes no guarantees that the proposed exceptions will be accepted or negotiated.** If the Bidder is awarded a contract and refuses to sign the contract as provided in this solicitation, CDOT may reject the Bidder proposal for this work. Under no circumstances shall the Bidder submit its own boilerplate of terms and conditions.

The initial term of the Contract shall be 1 year. Initial term of the Contract shall be from date of execution through the initial term of the award. If a contract, at its sole discretion, the State, upon written notice to the Contractor, may unilaterally renew the term of the Contract for **four (4)** additional terms of 1 year, including, but not limited to prices, rates and service delivery requirements. Bidder agrees to deliver under this solicitation for the full initial term and any renewals.

CDOT may elect to renew services annually contingent upon: (1) the results and recommendations generated through this contract; (2) the State's satisfaction and acceptance of the selected vendor's services and deliverables upon completion of each anticipated contract year; and (3) availability of funding to continue services.

1.22 SELECTION OF PROPOSAL:

All proposers will be notified in writing regarding the results of the RFP evaluation. Upon review and approval of the evaluation committee's recommendation for award(s), the CDOT Procurement Office will issue a "Notice of Intent to Make an Award" letter to the apparent successful proposer(s). Provided, however, that all proposers understand that such letter, by itself, does not grant any property interest or right of any nature in the RFP work/services or to a contract for the performance of such work/services. A contract must then be completed and signed by all parties and the State Controller, before any such right exists. Therefore, the apparent successful proposer(s) that receive a "Notice of Intent to Make an Award" letter shall not rely on that letter to make commitments to third parties, and the apparent successful proposer(s) shall not take any actions(s) to prepare for or start the performance of the RFP work/services until a contract is so negotiated and executed. In addition, a contract must be completed and signed by all parties concerned on or before the date indicated in the Schedule of Activities.

1.23 AWARD OF CONTRACT:

The award will be made to that proposer(s) whose proposal conforms to the RFP, and is/are judged to be the most advantageous to the State of Colorado and CDOT, price and other factors considered, subject to negotiation and execution of an acceptable contract as described above.

CDOT will award this solicitation and enter into a contract with the winning Proposer(s) through an executed State of Colorado, Department of Transportation Contract. CDOT intends to award to Offerors capable of fulfilling CDOT's current anticipated volume needs. However, should CDOT determine, at any time during the term of the resulting contract(s), that the number of awarded contractors is not adequate to properly fill CDOT's needs, CDOT reserves the right to make awards to Offerors who submitted responses to the original solicitation but were not awarded, or to re-issue the solicitation and make additional awards as necessary. If the solicitation is re-issued, current contractors in good standing will not be required to respond.

1.24 It is the intent of CDOT to select a vendor within 30 days of the deadline for receipt of proposals. However, bid proposals must be firm and valid for award for at least 120 days after the deadline for receipt of proposals.

1.25 NEWS RELEASES:

News releases pertaining to this RFP shall NOT be made prior to execution of a contract, and then will be made only with the approval of CDOT.

1.26 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:

1.26.1. By submission of this proposal each proposer thereto certifies as to its own organization, that in connection with this procurement:

- (a) The prices in this proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;
- (b) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to opening, directly or indirectly to any other proposer or to any competitor; and
- (c) No attempt has been made by the proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

1.26.2 Each person signing the Invitation for Bid form of this RFP certifies that:

He/she is the person in the proposer's organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to 1.26.1 (a) through (c) above.

or

He/she is not the person in the proposer's organization responsible within that organization for the decision as to the prices being offered herein but that he/she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to 1.26.1 (a) through (c) above, and as their agent does hereby so certify; and he/she has not participated, and will not participate, in any action contrary to 1.26.1 (a) through (c) above.

1.26.3 A proposal will not be considered for award where 1.26.1 (a) and (c), and 1.26.2 above, have been deleted or modified. Where 1.26.1 (b) above has been deleted or modified, the proposal will not be considered for award unless the proposer furnishes with the proposal a signed statement which sets forth in detail the circumstances of the disclosure and the head of the CDOT's Purchasing Office, or designee, determines that such disclosure was not made for the purpose of restricting competition.

1.27 TAXES

The State of Colorado, as purchaser, is exempt from all Federal taxes under Chapter 32 of the Internal Revenue Code (Registration No. 84-730123K), and from all State and Local Government Use Taxes (Ref.

Colorado Revised Statutes Chapter 39-26.114[a]). Proposer is hereby notified that when materials are purchased in certain political subdivisions the seller may be required to pay sales tax even though the ultimate product or service is provided to the State of Colorado. This sales tax will not be reimbursed by the State.

1.28 FUNDS AND COMPENSATION:

The funds payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. In the event funds are not appropriated, any resulting contract will become null and void, without penalty to the State of Colorado or CDOT.

1.29 BACKGROUND, OVERVIEW, GOALS:

Project Purpose

1.30 STATEMENT OF WORK:

See attached Statement of Work – Attachment C. **CDOT is not guaranteeing the award of any work.**

1.31 RESPONSIBILITIES

Responsibilities

1.32 SUBMISSION OF CONFIDENTIAL/PROPRIETARY INFORMATION

The State neither requests nor encourages the submission of confidential/proprietary information in response to this RFP. Information submitted will be open for public inspection. However, written requests for confidentiality can be submitted to the CDOT Purchasing Official, provided that the submission must be in STRICT accordance with the following procedures. The submission of information in strict accordance with such procedures shall be the SOLE RESPONSIBILITY of the proposer.

PROCEDURE FOR SUBMISSION:

- A. A written request for confidentiality shall be submitted, by the proposer with the proposal documents.
- B. The written request will be enclosed in an envelope marked "REQUEST FOR CONFIDENTIALITY", and attached to the cover of the ORIGINAL copy of the proposer's proposal that contains the invitation for proposal page with the proposer's ORIGINAL autographic signature.
- C. The written request must state SPECIFICALLY, AND IDENTIFY BY PAGE NUMBER, what elements of the proposal are to remain confidential. The request must also IDENTIFY THE BASIS for the claim of confidentiality, OTHER than a recitation of a SPECIFIC State or Federal statute.
- D. Confidential/propriety information MUST be readily IDENTIFIED, MARKED and SEPARATED/PACKAGED from the rest of the proposal. Co-mingling of confidential/propriety information and other information is NOT acceptable.
- E. The CDOT Purchasing Official will make a written determination as to the apparent validity of any request for confidentiality. The written determination of the Purchasing Official will be sent to the proposer.
- E. Proposals that are determined to be at variance with this procedure may be declared non-responsive by the Purchasing Official, and not given further consideration.

1.33 ORAL PRESENTATION/SITE VISITS:

Proposers may be asked to make oral presentations or to make their facilities available for a site inspection by the evaluation committee. Such presentations and/or site visits will be at the proposer's expense and for the total evaluation committee and the Purchasing Agent.

1.34 PROPOSAL PRICES:

Estimated proposal prices/amounts are not acceptable. Best and final offers may be considered in determining the apparent successful proposer, if requested, by the evaluation committee after oral presentations.

1.35 RFP CANCELLATION:

The State reserves the right to cancel this Request for Proposal at any time, without penalty.

1.36 PARENT COMPANY:

If a proposer is owned or controlled by a parent company, the name, main office address and parent company's tax identification number shall be provided in the proposal.

1.37 ASSIGNMENT AND DELEGATION:

Except for assignment of antitrust claims, neither party to any resulting contract may assign or delegate any portion of the agreement without the prior written consent of the other party.

1.38 VENUE:

The laws of the State of Colorado shall govern in connection with the formation, performance and the legal enforcement of any resulting contract. Further, Title 24, C.R.S. as amended, Article 101 through 112 and Rules adopted to implement the statutes govern this procurement.

1.39 COOPERATIVE PURCHASING AGREEMENT:

In accordance with 24-110-201 CRS, this solicitation may be issued to establish a cooperative purchasing agreement. The prices and rates from the awarded vendor's bid/proposal resulting from the solicitation may be used by the issuing entity, other state agencies, institutions of higher education, political subdivisions (i.e., cities, counties, schools) and eligible non-profit agencies. Each entity will be responsible for costs incurred by their entity and may use a commercial card or issue a purchase order/contract as appropriate by the ordering agency or entity.

1.40 COLORADO PROCUREMENT MODERNIZATION ACT:

As of August 9, 2017 the Colorado Procurement Modernization Act is in effect. As a result the following terms for all existing and future contracts will be void as a matter of law under Colorado Revised Statute 24-106-109:

- A. Any term that requires the State to indemnify or hold harmless the vendor or a 3rd party.
- B. Any term that requires the State to agree to binding arbitration or any other binding extra-judicial dispute resolution process.
- C. Any limitation of liability that includes bodily injury, death or damage to tangible property.
- D. Any term that requires legal disputes to be handled by any laws other than those of the state of Colorado. All contracts shall be governed by Colorado law.

All contracts containing terms 1.40 A-D above shall otherwise be enforceable as if they did not contain such terms.

1.41 EQUAL OPPORTUNITY AND NON-DISCRIMINATION:

CDOT, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

1.42 SUBCONTRACTING :

CDOT may award a single contract or multiple contracts. Subcontracting will be allowed under the Resulting award(s). Awarded vendors will be the Prime Contractor and will be fully accountable to CDOT for assuring that its subcontractors comply with all terms of the contract between CDOT and the Prime Contractor. All Subcontractors will be subject to the same State and Federal Laws,

Assurances and Certifications as the Prime Consultant.

1.43 COMPLIANCE WITH FEDERAL REQUIREMENTS

When a procurement involves the expenditure of federal assistance or federal contract funds, the Procurement Official shall comply with the appropriate federal law and the rules and regulations promulgated pursuant to such laws which are mandatorily applicable.

FEDERAL CLAUSES AND CERTIFICATIONS

1.44 Awarded Vendor(s) will be required to complete Federal Clauses and Certifications attached as Exhibit D prior to final award and execution of the contract.

1.45 RESPONSIBILITY OF VENDORS AND CONTRACTORS :

A determination of responsibility or non-responsibility shall be governed by these rules (R-24-103-401).

Standards of Responsibility

- (a) Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective contractor or vendor:
 - (i) has or can obtain the appropriate financial, material, equipment, facility, personnel resources and expertise to indicate the capability to meet all contractual requirements;
 - (ii) has a satisfactory record of performance;
 - (iii) has a satisfactory record of integrity;
 - (iv) does not appear on any debarred lists;
 - (v) is qualified legally to contract with the state; and
 - (vi) has supplied all necessary information in connection with the inquiry concerning responsibility.
- (b) The prospective contractor or vendor shall supply information requested by the procurement official concerning the responsibility of such contractor. If such contractor or vendor fails to supply the requested information, the chief procurement officer or procurement official shall base the determination of responsibility upon any available information.

Ability to Meet Standards

The prospective contractor or vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

- (a) Evidence that such contractor possesses such necessary items;
- (b) Acceptable plans to subcontract for such necessary items; or
- (c) A documented commitment from, or explicit arrangement with a satisfactory source to provide the necessary items.

Written Determination of Non-Responsibility Required

If a prospective contractor or vendor who otherwise would have been awarded a contract is found to be non-responsible, a written determination of non-responsibility setting forth the basis of the finding shall be prepared by the procurement official. A copy of the determination shall be sent promptly to the non-responsible prospective contractor or vendor. The determination shall be made part of the procurement record.

SECTION 2.0
INFORMATION REQUIRED FROM PROPOSERS
General Proposer Response Format

2.1 BACKGROUND:

This section of the proposal, should demonstrate the proposer's understanding of, and approach to, the described services, specifically addressing how *each element* of the Statement of Work will be accomplished using the _____ as an example. The proposal should include details of the following:

2.2 CONFLICT IDENTIFICATION:

Proposals must identify all current and former contract activity with any existing State agency or transportation authority, reasonably related to the work described in this RFP. Indicate when involvement occurred and length such involvement, the specific type of activity with identified agency and/or transportation authority, and indicate the extent of involvement with such entities.

2.3 WORK EXPERIENCE:

Using the _____ as an example of how expertise will be applied, the proposal should list and describe all relevant work experience and qualifications, including but not limited to:

- a. Describe why your firm is well qualified to provide the services that have been described in this RFP.
- b. Describe your firms experience and capabilities in _____
- c. Other _____

2.4 FORMAT FOR PROPOSALS – Submissions must be electronic and submitted through the CDOT SUSS vendor portal in one file. If file size does not permit one file, then clearly mark the sections of your submittal. Firms responding to this RFP should address the following items in no more **than 16 pages**, double sided (excluding appendices: resumes, sample reports, charts, graphs, or other supporting documentation), 11 pt. font, 8.5 x 11 letter size paper, 1.5 inch margins per submission. Do not leave pages blank. All pages must be clearly numbered and sections labeled. 11x17 formatting can be used if it's necessary to properly display charts, maps, or similar information and will be counted as a single page. Text should not be presented in 11x17 format. The Cover Letter will be included towards the page count.

COVER LETTER

A cover letter (separate from the RFP signature form) must be included that generally introduces the Project Team and the approach to completing various work items outlined in the statement of work under sections 1.30 & 1.31. It must be signed by a person with full authority to enter into a contract between the Contractor and CDOT.

2.5 FEES AND EXPENSES

Cost Proposal

Contractor shall complete the work identified in this **Exhibit C – Scope of Work** based on the following Cost Proposal:

A. Labor Costs

Employee Classification	Labor Rate	Total Hours	Total Cost
1.			
2.			
3.			

Total Labor Costs: \$ _____

B. Materials, Equipment, and Other Costs

Item Description	Quantity	Total Cost
1.		
2.		
3.		

Total Materials/Equip/Other Costs: \$ _____

C. Total Project Cost

The total project cost and Task Order Maximum Amount Payable is \$ _____.

The above project budget includes all fees, costs, and expenses, including, but not limited to, labor costs, travel expenses, parts, service, repair, removal, replacement, mileage charges, supplies, mailing charges, installation, testing, communications, order and order tracking, reporting, debugging, analysis, delivery charges, and other expenses.

OR

PRICES AND RATES

The total price of a Project shall be determined based on the following prices and rates:

A. Labor Rates

Employee Classification	Rate/Hour
1.	
2.	
3.	

B. Materials, Equipment, and Other Costs

Item Description	Unit Cost
1.	
2.	
3.	

The above rates shall include all fees, costs, and expenses, including, but not limited to, labor costs, travel expenses, parts, service, repair, removal, replacement, mileage charges, supplies, mailing charges, installation, testing, communications, order and order tracking, reporting, debugging, analysis, delivery charges, and other expenses. The State is not required to execute any minimum number of Task Orders under the Contract. Only one price/rate increase will be considered during any Renewal Term following the Initial Term.

2.6 VETERANS PREFERENCE:

A. Pursuant to C.R.S. 24-50-511, the State shall give consideration to proposers utilizing a preference for hiring veterans of military service *only* in the following manner:

- To break a tie between proposals following review, scoring and ranking by the evaluation committee. Such tie shall be broken by awarding the resulting contract to the proposer utilizing the greatest quantitative (numerical) preference for veterans in the hiring of its employees.

Veterans' preference will not be used as a scored criterion in the evaluation and ranking of proposals received in response to this RFP solicitation.

B. Proposers should be aware of the provisions of the recently enacted House Bill 14-1224 which sets Service Disabled Veteran Owned Small Business(SDVOSB) goal of at least 3% of all contracts by dollar value be awarded to SDVOSBs, who must be incorporated or organized in Colorado or they must maintain a place of business or have an office in Colorado and who are officially registered and verified as a SDVOSB by the **Center for Veteran Enterprise within the U.S. Department of Veteran Affairs**.(www.vip.vetbiz.gov)

Service Disabled Veteran Owned Small Business (SDVOSB), In accordance with Procurement Code C.R.S. 24-103-211; An Offeror claiming status as a service disabled veteran owned small business must identify itself as such in its proposal and provide documentation of its certification from the United States Department of Veteran Affairs with its bid response.

SDVOSB preference will be used as a scored criterion in the evaluation and ranking of proposals received in response to this RFP solicitation.

2.7 MBE/WBE PARTICIPATION:

The State encourages its agencies to utilize minority-owned and women-owned businesses to the greatest extent possible without sacrificing adequate competition. Proposer's are reminded of the illegality of discrimination, and the provisions of Procurement Code Section 24-111-102.

In accordance with 49 CFR Parts 23 and 26 and 14 CFR Part 152, the Colorado Department of Transportation and the contractors, subcontractors, cities, counties and other local entities with whom it does business will take all necessary and reasonable steps to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and participate in contracts and subcontracts financed with state and federal funds. This policy specifically upholds the Transportation Commission's commitment to fair and equitable business practices and is supported by CDOT's DBE program.

SECTION 3 EVALUATION CRITERIA

3.1 AWARD OF BID:

This section will outline the evaluation criteria to be used by the evaluation committee in the review, rating, and selection of submitted proposals. After evaluation of the written proposals, CDOT *may* request oral presentations from top-ranked proposers. The highest ranked proposals will be given fair and equal treatment during the second (optional) phase of the evaluation. Oral presentations will not be scored separately as part of this solicitation. Oral presentations will only be used to adjust the proposal scores accordingly (per the same evaluation criteria), based upon the information discussed at the presentation. The top-ranked proposal(s) (following conclusion of all phases of the evaluation) shall be recommended, by the evaluation committee, to enter into contract negotiations. The contract(s) will be awarded to those proposer(s) whose proposal (conforming to the RFP) is/are deemed to be the most advantageous to the State of Colorado, price and other factors considered.

3.2 EVALUATION PROCESS:

- 3.2.1 Each member of the evaluation committee will first independently evaluate the merit of proposals received in accordance with the evaluation factors defined in the RFP, followed by panel discussion and final scores ranking. The recommendations of this committee will then be forwarded by the purchasing agent, to the CDOT Procurement Director for review and final approval.
- 3.2.2 Failure of the proposer to provide any information requested in the RFP may result in disqualification of the proposal as nonresponsive. It is the responsibility of the proposer to provide all information required by this RFP.
- 3.2.3 The sole objective of the evaluation committee will be to recommend the proposal most responsive to the State of Colorado's needs. The specifications detailed in this RFP represent the minimum performance necessary for such response.
- 3.2.4 The top ranked proposal(s) (highest score(s)), following independent review and panel discussion, will be recommended either for award or, if the evaluators deem in appropriate, to make an oral presentation.
- 3.2.5 Proposal Scoring: The sole objective of the evaluation committee will be to score the responses and recommend the proposer(s) whose proposal is/are most advantageous to the State of Colorado, taking into consideration all evaluation factors set forth herein. Following independent review and panel discussion, the successful proposer(s) will be the one(s) accumulating the highest number of points (of a maximum 100) at the conclusion of the final stage of the selection process and whose proposal(s) is/are deemed most advantageous to the State, and who successfully negotiates the ensuing contract.

3.3 EVALUATION CRITERIA:

The complete proposal package will include, *but not be limited to*, evaluation using the factors listed below. These factors are designed to incorporate specific evaluation of the items presented in Section 1.30 and Section 2 of this RFP.

As stated in Section 2.1, proposals should not simply repeat what is written in Section 1.30 of this RFP – the Statement of Work, but rather evidence the proposer's understanding of the State's requirements and its ability to provide the services needed within a clearly defined and cost-effective budget. (Refer to Section 2 of this RFP).

1. **Understanding and Project Approach** - describes clear understanding of CDOT goals and proposal and contains all required information including certifications and specific information about task in Scope of Work: (40%)

- a.
- b.

c. .

2. **Overall Experience & Capabilities** - describes relevant experience of the firm, proposed staff and team experience and clearly demonstrate expertise for this contract: (30%)
 - a. .
 - b. .
 - c. .
3. **Qualifications and Ability to Provide Services** - Sufficient staff/availability to perform in a timely manner, clear description of ability to respond and complete projects in a timely manner: (15%)
 - a. Qualification and commitment of personnel.
4. **Budget and Narrative** - describes cost effective and efficient staffing/procedures that demonstrate quality value of final product: (10%) (can be more, but not less)
 - a. Information is provided as requested in Section 2.5 and no unacceptable modifications to the terms and conditions outlined in this RFP are proposed.
5. **Feasibility and Completeness: (5%)**
 - a. The proposal is both adequate and complete, as defined through the RFP.
 - b. The proposal inspires confidence in production of a quality-required product, solicited under the RFP.
6. **Service Disabled Veteran Owned Small Business (SDVOSB) Certification: (5% preference if applicable)**
 - a. Proposers should be aware that there is a Service Disabled Veteran Owned Small Business (SDVOSB) goal of at least 3% of all contracts by dollar value be awarded to SDVOSBs, who must be incorporated or organized in Colorado or they must maintain a place of business or have an office in Colorado and who are officially registered and verified as a SDVOSB by the **Center for Veteran Enterprise within the U.S. Department of Veteran Affairs**. (www.vip.vetbiz.gov)
 - b. Service Disabled Veteran Owned Small Business (SDVOSB), In accordance with Procurement Code C.R.S. 24-103-905; An Offeror claiming status as a service disabled veteran owned small business must identify itself as such in its proposal and provide documentation of its certification from the United States Department of Veteran Affairs with its bid response.

Attachment A

COLORADO DEPARTMENT OF TRANSPORTATION CONSULTANT CERTIFICATION

CDOT Form #637

Consultant firm name	
Consultant firm complete address	
Authorized representative name (print)	Title
<p>I certify that neither I nor the above firm I represent has:</p> <ul style="list-style-type: none"> - employed or retained for a commission, percentage, brokerage, gift, contingent fee or other consideration, any firm or person (other than a bonafide employee working solely for me or the above consultant) contingent upon or resulting from the award or making of this contract, or to solicit or secure this contract; - agreed as a known or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract; or - paid, or agreed to pay, to any firm, organization or person (other than a bonafide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract; <p>I further certify that:</p> <ul style="list-style-type: none"> - any exceptions to the conditions listed above are: <ul style="list-style-type: none"> - wage rates and other factual unit costs supporting the compensation to be paid under this contract are accurate, complete and current. <p>I acknowledge that this certificate is to be furnished to the Colorado Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal Aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.</p> <p>I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS THAT THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.</p>	
Firm representative signature	Date

CERTIFICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION

<p>I certify that I am the duly authorized representative of the Colorado Department of Transportation and, that the above Consulting firm or its representative has not been required, directly or indirectly as a known or implied condition in connection with obtaining or carrying out this contract to:</p> <ul style="list-style-type: none"> - employ or retain, or agree to employ or retain, any firm or person; or - pay, or agree to pay, any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; <p>I further certify that:</p> <ul style="list-style-type: none"> - any exception to the conditions listed above are: 	
<p>I acknowledge that this certificate is to be furnished the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal Aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.</p>	
<p>CDOT representative signature and title</p>	<p>Date</p>

Attachment 4-5. DTR Quick Procurement Guide



COLORADO
Department of Transportation

DIVISION OF TRANSIT AND RAIL QUICK PROCUREMENT GUIDE 2019





This guide includes tools and guidelines for a subrecipient conducting a third-party procurement.

BASIC REQUIREMENT	2
LIST OF ABBREVIATIONS	2
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DETERMINATION OF STATE OR FEDERAL FUNDING.....	5
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FTA AND FASTER CERTIFICATIONS AND ASSURANCES.....	7
PROCUREMENT DOCUMENTATION REQUIREMENTS.....	11
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BASIC REQUIREMENT

Organizations use their own procurement procedures that reflect applicable state and local laws and regulations, provided that the process ensures competitive procurement and the procedures conform to applicable Federal law, including 2 CFR Part 200 (specifically Sections 200.317-200.326), and FTA Circular 4220.1F, "Third Party Contracting Guidance."

LIST OF ABBREVIATIONS

A&E	Architectural and Engineering
ADA	Americans with Disabilities Act
CASTA	Colorado Association of Transit Agencies
CDOT	Colorado Department of Transportation
DBE	Disadvantaged Business Enterprise
EEO	Equal Employment Opportunity
FMVSS	Federal Motor Vehicle Safety Standards
FTA	Federal Transit Administration
ICE	Independent Cost Estimate
IFB	Invitation for Bid
ITS	Information Technology Solutions
NA	Notice of Acceptance
PA	Purchase Authorization
PCR	Procurement Concurrence Request
RFP	Request for Proposals
RFQ	Request for Quotation
SA	Security Agreement
TVM	Transit Vehicle Manufacturer



PROCUREMENT THRESHOLDS



STATE

\$0 to \$4,999	Micro- Purchase
\$5,000 to \$24,999	Documented Quote
\$25,000 to \$150,000	Quick Bid
≥ \$150,000	IFB/RFP/QBS



FEDERAL

\$0 to \$10,000	Micro-Purchase
\$10,001 to \$250,000	Small Purchase (Documented Quotes)
> \$250,000	Above Small Purchase (RFP)

METHOD OF PROCUREMENT DECISION MATRIX

To determine which method of procurement is best suited, classify the situation by checking off the applicable boxes in each of the procurement methods below. All elements must apply to justify use of the method.

I. Micro-purchase

- ☐ Amount is under the Micro-purchase threshold
- ☐ Three or more vendor quotes available

II. Small Purchase (Documented Quote)

- ☐ Amount is within the Documented Quote Threshold
- ☐ Two or more vendor quotes available (Competitive Procurement)

III. Competitive Procurement

- ☐ Amount is above the Documented Quote Threshold
- ☐ Multiple sources available
- ☐ Not an Emergency Procurement



IV. Sole Source (not all elements need to apply for this category)

- ☐ Emergency Procurement (Subset of Sole Source)
- ☐ Original Equipment Manufacturer, Custom Item
- ☐ Only one source available
- ☐ Approved by CDOT - Sole Source
- ☐ Public exigency issue/emergency
- ☐ Competition is inadequate after public solicitation
(If all elements apply, continue to Emergency Procurement below)
- ☐ This is a health and safety issue that prohibits delay

V. Sealed Bid—Invitation For Bid (IFB)

- ☐ Complete & adequate specifications or purchase description
- ☐ Two or more responsible bidders willing to compete
- ☐ Selection can be made on basis of price
- ☐ Procurement suitable for firm, fixed price

VI. Informal Competitive Bidding—Request for Quotation (RFQ)

- ☐ Complete & adequate specifications or purchase description
- ☐ Does not require complicated solicitation evaluation

VII. Competitive Proposals—Request for Proposal (RFP)

- ☐ Complete specification not feasible
- ☐ Bidder input needed for specification
- ☐ Two or more responsible bidders willing to compete
- ☐ Discussion needed with bidder after receipt of proposals, prior to award

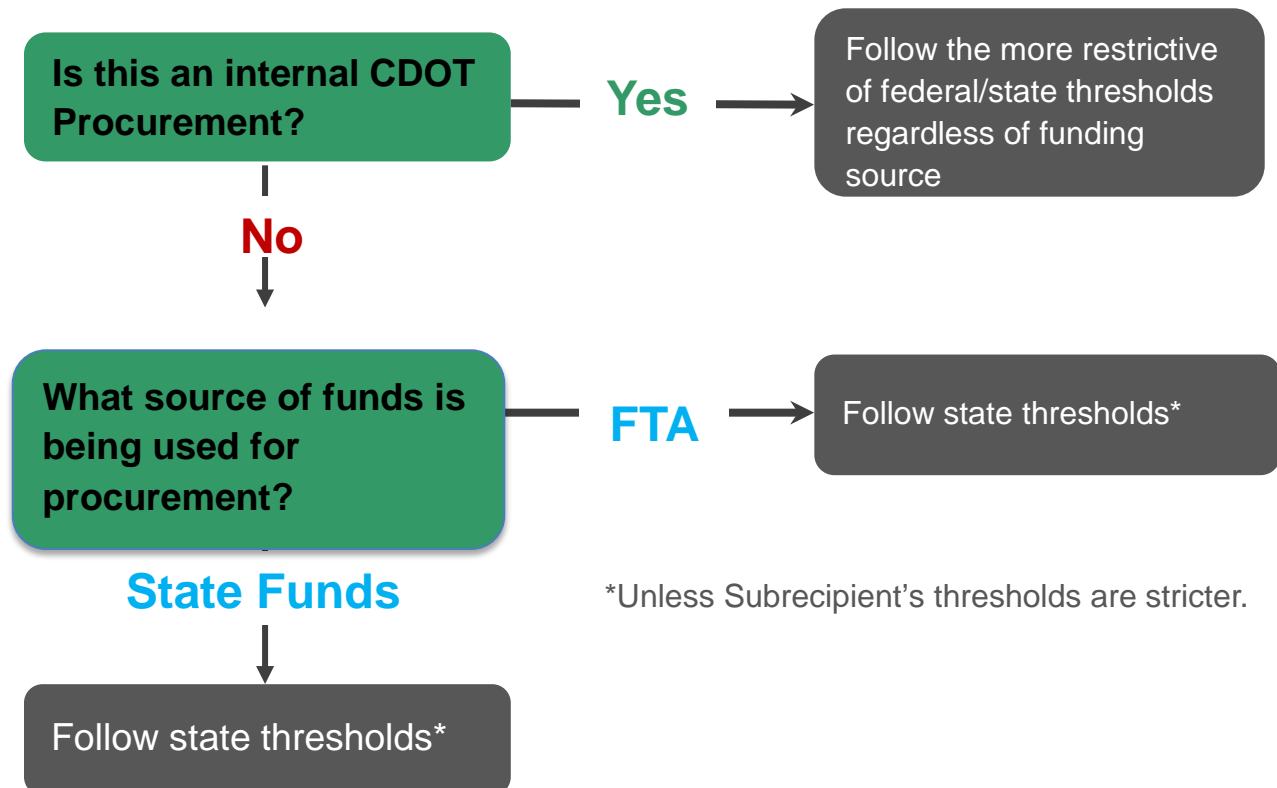


VIII. Procurement for Architectural/Engineering Professional Services - Qualification Based Solicitation (QBS)

- ☐ Complete specification not feasible
- ☐ Bidder input needed for specification
- ☐ Two or more responsible bidders willing to compete
- ☐ Discussion needed with bidder after receipt of proposals, prior to award

Note: You cannot divide or reduce the size of the procurement to avoid the additional procurement requirements. Avoid unreasonable qualifications, specifying brand names, or exhibiting geographic preference. The successful bidder can be selected on the basis of price only.

DETERMINATION OF STATE OR FEDERAL FUNDING





DEFINITIONS USED IN DTR's PROCUREMENT PROCESSES

1

PCR Procurement Concurrence Request

The PCR is made for the purpose of reviewing the request to ensure that it avoids duplicative or unnecessary purchases and considers opportunities for intergovernmental or inter-entity sharing of goods/services. The Project Coordinator reviews the rationale for the request and procurement method, and then approves or rejects the PCR in COTRAMS.

2

PA Purchase Authorization

Subrecipients must prepare this form and submit it for approval prior to finalizing its agreement with the vendor for goods or services purchased with federal/state funding. The Project Coordinator reviews the required documentation (as seen in Procurement Documentation Requirement chart) and approves or rejects the PA in COTRAMS.

3

NA Notice of Acceptance

Subrecipients submit the NA after they have accepted any equipment or rolling stock. The NA also includes a Vehicle Inspection Checklist and allows for the Post Delivery Audit to be reported to the Project Coordinator. Post Delivery Audit includes: Buy America Certification (as applicable), Purchaser's Requirements Certification, Federal Motor Vehicle Safety Standards Certification, and Altoona Testing as applicable.

4

SA Security Agreement

The SA is made for the purpose of securing the State or Federal interest in transit vehicles purchased with State or Federal funds awarded by CDOT to the subrecipient. This form is taken to the agency's county DMV to register and title the vehicle. In order to ensure proper use of vehicles throughout the useful life, CDOT holds a first lien on all vehicles in the amount of the Federal or State share of the vehicle cost.

FTA AND FASTER CERTIFICATIONS AND ASSURANCES

FTA ANNUAL CERTIFICATIONS AND ASSURANCES CLAUSES

CLAUSE	Above Small Purchase (Greater than \$250,000)					Small Purchase (\$10,001 - \$250,000)					Micro-Purchase (\$0 - \$10,000)				
	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies	Professional Services/ A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies
A&E = Architectural and Engineering; ADA = Americans with Disabilities Act; DBE = Disadvantaged Business Enterprise; EEO = Equal Employment Opportunity															
Fly America	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air				Construction contracts over \$2,000	
Buy America			All	All	All			>\$150,000	>\$150,000	>\$150,000 (for steel, iron, manufactured products)					
Charter Bus Service Operations		All					All							Construction contracts over \$2,000	
School Bus Operations		All					All							Construction contracts over \$2,000	
Cargo Preference			Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel			Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel				Involving property that may be transported by ocean vessel	
Seismic Safety	A&E for new buildings and additions			New buildings and additions		A&E for new buildings and additions			New buildings and additions					Construction contracts over \$2,000	
Energy Conservation	All	All	All	All	All	All	All	All	All	All				Construction contracts over \$2,000	
Clean Water	All	All	All	All	All	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000					
Bus Testing (not minivans)			All					All							
Pre-Award and Post Delivery Audit Requirements			All					All							
Lobbying	All	All	All	All	All	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000					
Access to Records and Reports	All	All	All	All	All	All	All	All	All	All				Construction contracts over \$2,000	
Federal Changes	All	All	All	All	All	All	All	All	All	All				Construction contracts over \$2,000	

FTA ANNUAL CERTIFICATIONS AND ASSURANCES CLAUSES

CLAUSE	Above Small Purchase (Greater than \$250,000)					Small Purchase (\$10,001 - \$250,000)					Micro-Purchase (\$0 - \$10,000)				
	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies	Professional Services/ A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies
A&E = Architectural and Engineering; ADA = Americans with Disabilities Act; DBE = Disadvantaged Business Enterprise; EEO = Equal Employment Opportunity															
Bonding (not required of states)				All (including ferry vessels)											
Clean Air	All	All	All	All	All	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000					
Recycled Products		All		All	All		Contracts for items designated by EPA, when procuring \$10,000 or more per year		Contracts for items designated by EPA, when procuring \$10,000 or more per year	Contracts for items designated by EPA, when procuring \$10,000 or more per year					
Davis-Bacon and Copeland Anti-Kickback Act				All (including ferry vessels)					All (including ferry vessels)					Section 1: All Section 2: >\$2,000 (including ferry vessels)	
Contract Work Hours and Safety Standards Act		All	All	All (including ferry vessels)			>\$100,000	>\$100,000	>\$100,000 (including ferry vessels)						
No Government Obligations to Third Parties	All	All	All	All	All	All	All	All	All	All				Construction contracts over \$2,000	
Program fraud and false or fraudulent statements and related acts	All	All	All	All	All	All	All	All	All	All				Construction contracts over \$2,000	
Termination Provisions	All	All	All	All	All	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000					
Gov't-wide Debarment and Suspension	All	All	All	All	All	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000					
Privacy Act	All	All	All	All	All	All	All	All	All	All					
Civil Rights (Title VI, Equal Employment Opportunity (EEO), Americans with Disability Act (ADA))	All	All	All	All	All	All	All	All	All	All	All	All	All	All	All
Breaches and Dispute Resolution	All	All	All	All	All	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000					
Patent Rights and Rights in Data (& Copyrights Requirements)	Research & development					Research & development					Research & development			Construction contracts over \$2,000	

FTA ANNUAL CERTIFICATIONS AND ASSURANCES CLAUSES

CLAUSE	Above Small Purchase (Greater than \$250,000)					Small Purchase (\$10,001 - \$250,000)					Micro-Purchase (\$0 - \$10,000)				
	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies	Professional Services/ A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies
A&E = Architectural and Engineering; ADA = Americans with Disabilities Act; DBE = Disadvantaged Business Enterprise; EEO = Equal Employment Opportunity															
Transit Employee Protective Arrangements		Transit operations funded with Section 5307, 5309, 5311, 5316 funds					Transit operations funded with Section 5307, 5309, 5311, 5316 funds							Construction contracts over \$2,000	
Disadvantaged Business Enterprises (DBE)	All	All	All	All	All	All	All	All	All	All	All	All	All	All	All
Prompt Payment	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met				All if threshold for DBE program met	
Incorporation of FTA Terms	All	All	All	All	All	All	All	All	All	All				Construction contracts over \$2,000	
Drug and Alcohol Testing		Transit operations funded with Section 5307, 5309, 5311 funds					Transit operations funded with Section 5307, 5309, 5311 funds					Transit operations funded with Section 5307, 5309, 5311 funds		Construction contracts over \$2,000	

FASTER CERTIFICATIONS AND ASSURANCES CLAUSES

CLAUSE	IFB/RFP/QBS (>\$100,000)		Quick Bid (\$25,000 - \$99,999)		Documented Quote (\$5,000 - \$24,999)		Micro-Purchase (\$0 - \$4,999)	
	FASTER		FASTER		FASTER		FASTER	
	Rolling Stock	Other (Operating, Planning/Professional Services, Equipment Purchases, ITS)	Rolling Stock	Other (Operating, Planning/Professional Services, Equipment Purchases, ITS)	Rolling Stock	Other (Operating, Planning/Professional Services, Equipment Purchases, ITS)	Rolling Stock	Other (Operating, Planning/Professional Services, Equipment Purchases, ITS)
A&E = Architectural and Engineering; ADA = Americans with Disabilities Act; DBE = Disadvantaged Business Enterprise; EEO = Equal Employment Opportunity								
Fly America								
Buy America								
Charter Bus Service Operations								
School Bus Operations								
Cargo Preference								
Seismic Safety								
Energy Conservation								
Clean Water								
Bus Testing (not minivans)	All		All		All		All	
Pre-Award and Post Delivery Audit Requirements								
Lobbying	>\$150,000	>\$150,000						
Access to Records and Reports	All	All	All	All	All	All	All	All
Federal Changes								
Bonding (not required of states)								
Clean Air								
Recycled Products								
Davis-Bacon and Copeland Anti-Kickback Act								
Contract Work Hours and Safety Standards Act		>\$150,000 (Construction)						
No Government Obligations to Third Parties	All	All	All	All	All	All	All	All
Program fraud and false or fraudulent statements and related acts								
Termination Provisions	All	All	All	All	>\$10,000	>\$10,000		
Gov't-wide Debarment and Suspension (#22)	All	All	All	All				
Privacy Act (#23)								
Civil Rights (Title VI, Equal Employment Opportunity (EEO), Americans with Disability Act (ADA))	All	All	All	All	All	All	All	All
Breaches and Dispute Resolution								
Patent and Rights in Data								
Transit Employee Protective Arrangements								
Prompt Payment								
Incorporation of FTA Terms								
Drug and Alcohol Testing								



PROCUREMENT DOCUMENTATION REQUIREMENTS

Subrecipients must maintain sufficient records that detail the significant history of a procurement. At a minimum, such records must include:



Rationale for the method of procurement (i.e., Request for Proposals, Invitation for Bids, sole source)



Selection of contract type (i.e., fixed price, cost reimbursement)



Reason for contractor selection or rejection



Basis for the contract price (i.e., cost/price analysis)



The extent of documentation should be reasonable. Documents included in a procurement history should be commensurate with the size and complexity of the procurement itself. FTA recognizes that these written records will vary greatly for different procurements.

PROCUREMENT DOCUMENTATION REQUIREMENTS

Procurement Type	Description	PCR (see additional required documentation)	PA (see additional required documentation)	NA & Post Delivery Audit (Altoona Testing, Purchasers Requirements, FMVSS, \$150K or More [Buy America])	SA (for rolling stock, property and buildings only)	PCR Required Documentation (to be submitted in COTRAMS)	PA Required Documentation (Certifications in COTRAMS to be completed by Subrecipients)	Reimbursement Documentation
FMVSS = Federal Motor Vehicle Safety Standards; ICE = Independent Cost Estimate; IFB = Invitation for Bid; NA = Notice of Acceptance; PA = Purchase Authorization; PCR = Procurement Concurrence Request; RFP = Request for Proposals; SA = Security Agreement; TVM = Transit Vehicle Manufacturer								
CDOT Price Agreements	Procurement using CDOT/DTR's negotiated price agreements for commonly purchased buses and transit vehicles.	X	X	X	X	<ul style="list-style-type: none"> Independent Cost Estimate (ICE) 	<ul style="list-style-type: none"> Cost and Price Analysis* Check SAM.GOV for vendor registration and eligibility - Screenshot or Print out* Signed Transit Vehicle Manufacturer (TVM) Certification* Bus Testing Certification* Federal Motor Vehicle Safety Standards (FMVSS) Certification* Purchasers Requirement Certification* More than \$100k Lobby Certification* More than \$150k Buy America Certification* Price Agreement Vendor Quotes* <p>*Obtained from CDOT Price Agreement Contractor for vehicle procurement</p> <p>Additional: TVM Survey Monkey - CDOT Staff</p>	<ul style="list-style-type: none"> Independent Cost Estimate Procurement Concurrence Request Purchase Authorization Notice of Acceptance Security Agreement Application for Title or Title Invoice Proof of Payment Post Delivery Certifications
State Price Agreements (State funds only)	Procurements using State of Colorado State Commodity & Service Agreements. Agreements generally run for a year, with the option for renewal. The State's current contracts can be found at https://www.colorado.gov/pacific/osc/price-agreements .	X	X	X	X	<ul style="list-style-type: none"> ICE 	<ul style="list-style-type: none"> Cost and Price Analysis Check SAM.GOV for vendor registration and eligibility - Screenshot or Print out* Signed TVM Certification (vehicles only) Bus Testing Certification (vehicles only) FMVSS Certification (vehicles only) Purchasers Requirement Certification (vehicles only) More than \$100k Lobby Certification More than \$150k Buy America Certification Price Agreement Vendor Quotes <p>Additional: TVM Survey Monkey (FTA funds only) - CDOT Staff</p>	
Piggybacking (Non-federal funds)	A post award practice that allows a party that was not included in the original procurement to purchase supplies or equipment through the contract. Piggybacking is only allowed under certain circumstances.	X	X	X	X	<ul style="list-style-type: none"> ICE 	<ul style="list-style-type: none"> All official correspondence related to the procurement Written approval from original agency Supporting documentation for Piggybacking Worksheet Self-certifications for Buy America and Purchaser's Requirements <p>Additional: TVM Survey Monkey (FTA funds only) - CDOT Staff</p>	

PROCUREMENT DOCUMENTATION REQUIREMENTS

Procurement Type	Description	PCR (see additional required documentation)	PA (see additional required documentation)	NA & Post Delivery Audit (Altoona Testing, Purchasers Requirements, FMVSS, \$150K or More [Buy America])	SA (for rolling stock, property and buildings only)	PCR Required Documentation (to be submitted in COTRAMS)	PA Required Documentation (Certifications in COTRAMS to be completed by Subrecipients)	Reimbursement Documentation
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Micro-Purchases	Purchases under \$10,000. Do not require competitive quotes.	--	--	--	--	<ul style="list-style-type: none"> ICE 	<ul style="list-style-type: none"> Documentation that the price is reasonable 	
Documented Quotes	Purchases between \$10,000 and \$250,000. Require a minimum two quotes.	X	X	X	X	<ul style="list-style-type: none"> ICE 	<ul style="list-style-type: none"> Cost and Price Analysis Check SAM.GOV for vendor registration and eligibility - Screenshot or Print out* Signed TVM Certification (vehicles only) Bus Testing Certification (vehicles only) FMVSS Certification (vehicles only) Purchasers Requirement Certification (vehicles only) More than \$100k Lobby Certification More than \$150k Buy America Certification Vendor Quotes Additional: TVM Survey Monkey (FTA funds only) - CDOT Staff	
Invitation for Bid (IFB)/ Request for Proposal (RFP)	Purchases over \$250,000. Competitive procurement with defined rules and procedures.	X	X	X	X	<ul style="list-style-type: none"> ICE RFP with applicable clauses* *To be downloaded from Procurement Pro 2.0	<ul style="list-style-type: none"> Cost and Price Analysis Check SAM.GOV for vendor registration and eligibility - Screenshot or Print out* Signed TVM Certification (vehicles only) Bus Testing Certification (vehicles only) FMVSS Certification (vehicles only) Purchasers Requirement Certification (vehicles only) More than \$100k Lobby Certification More than \$150k Buy America Certification Additional: TVM Survey Monkey (FTA funds only) - CDOT Staff	
Qualification-based (Brooks Act)	Used for procuring architectural/engineering professional services.	X	X	--	X	<ul style="list-style-type: none"> ICE RFP with applicable clauses* *To be downloaded from Procurement Pro 2.0	<ul style="list-style-type: none"> Cost and Price Analysis Check SAM.GOV for vendor registration and eligibility - Screenshot or Print out* More than \$100k Lobby Certification More than \$150k Buy America Certification Additional: TVM Survey Monkey (FTA funds only) - CDOT Staff	

PROCUREMENT DOCUMENTATION REQUIREMENTS

Procurement Type	Description	PCR (see additional required documentation)	PA (see additional required documentation)	NA & Post Delivery Audit (Altoona Testing, Purchasers Requirements, FMVSS, \$150K or More [Buy America])	SA (for rolling stock, property and buildings only)	PCR Required Documentation (to be submitted in COTRAMS)	PA Required Documentation (Certifications in COTRAMS to be completed by Subrecipients)	Reimbursement Documentation
FMVSS = Federal Motor Vehicle Safety Standards; ICE = Independent Cost Estimate; IFB = Invitation for Bid; NA = Notice of Acceptance; PA = Purchase Authorization; PCR = Procurement Concurrence Request; RFP = Request for Proposals; SA = Security Agreement; TVM = Transit Vehicle Manufacturer								
Sole Source	Procurements soliciting proposal from one source. Also used for a contract change not within scope of the original contract.	X	X	X	X	<ul style="list-style-type: none">ICE	<ul style="list-style-type: none">Cost and Price AnalysisCheck SAM.GOV for vendor registration and eligibility - Screenshot or Print out*Signed TVM Certification (vehicles only)Bus Testing Certification (vehicles only)FMVSS Certification (vehicles only)Purchasers Requirement Certification (vehicles only)More than \$100k Lobby CertificationMore than \$150k Buy America CertificationSole Source JustificationProposed contract with applicable clauses <p>Additional: TVM Survey Monkey (FTA funds only) - CDOT Staff</p>	



LINKS & TIPS

FTA Procurement Website

<https://www.transit.dot.gov/funding/procurement/procurement>

FTA Circular C 4220.1F: Third Party Contracting Guidance provides contracting guidance for recipients of federal assistance awarded by the FTA when using that federal assistance to finance its procurements (third-party contracts)

<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance>

FTA Best Practices Procurement Manual includes procedures, methods, and examples of procurement practices covering the entire procurement cycle

<https://www.transit.dot.gov/funding/procurement/third-party-procurement/best-practices-procurement-manual>

Federal Title 49 – Part 18 Subpart C, Section 18.36 Procurement

<https://www.gpo.gov/fdsys/pkg/CFR-1999-title49-vol1/pdf/CFR-1999-title49-vol1-sec18-36.pdf>

National RTAP ProcurementPRO website—especially helpful for managing RFP's

<http://www.nationalrtap.org/Web-Apps/ProcurementPRO-20>

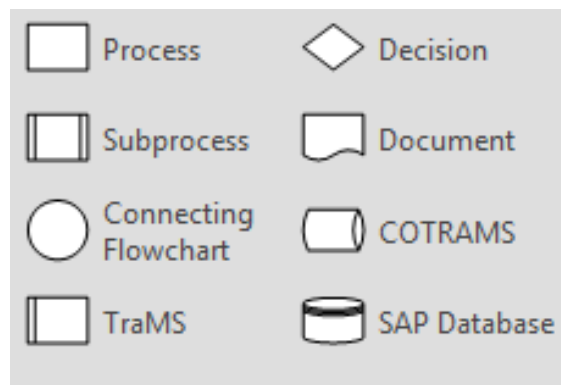
RTAP Procurement Assistance is available to rural agencies by contacting Colorado Association of Transit Agencies (CASTA)

<https://coloradotransit.com/>

CHAPTER 4

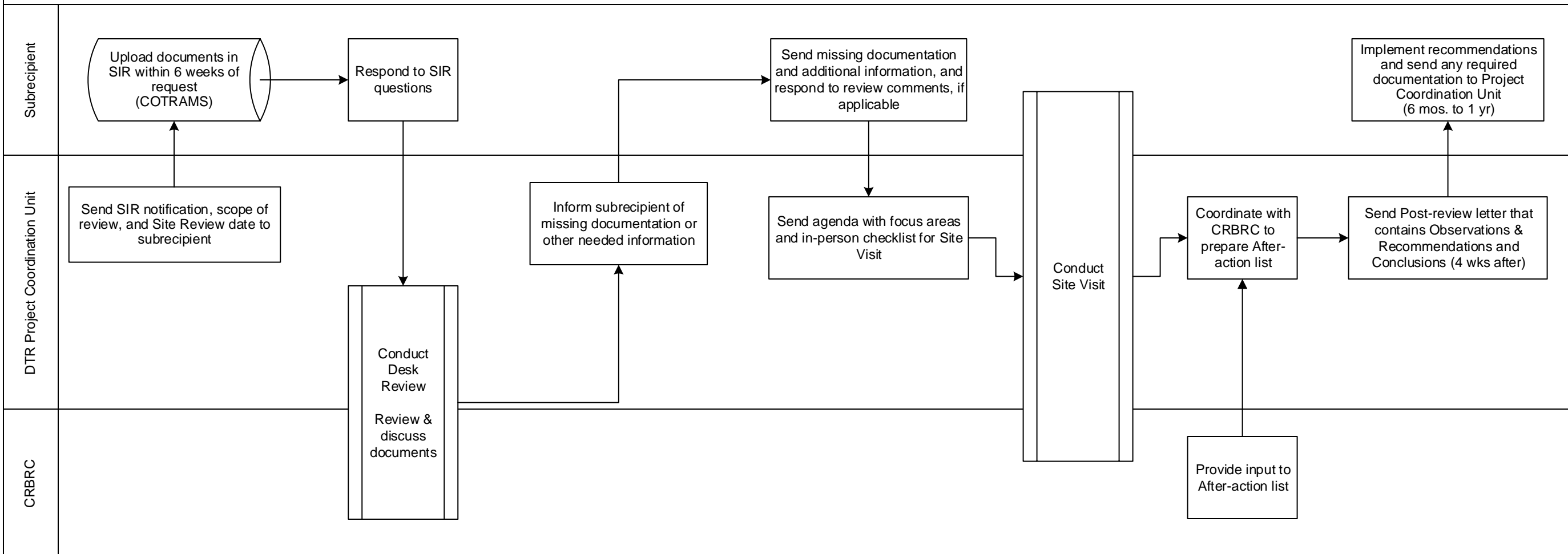
FLOWCHARTS

Flowchart Shapes/Key



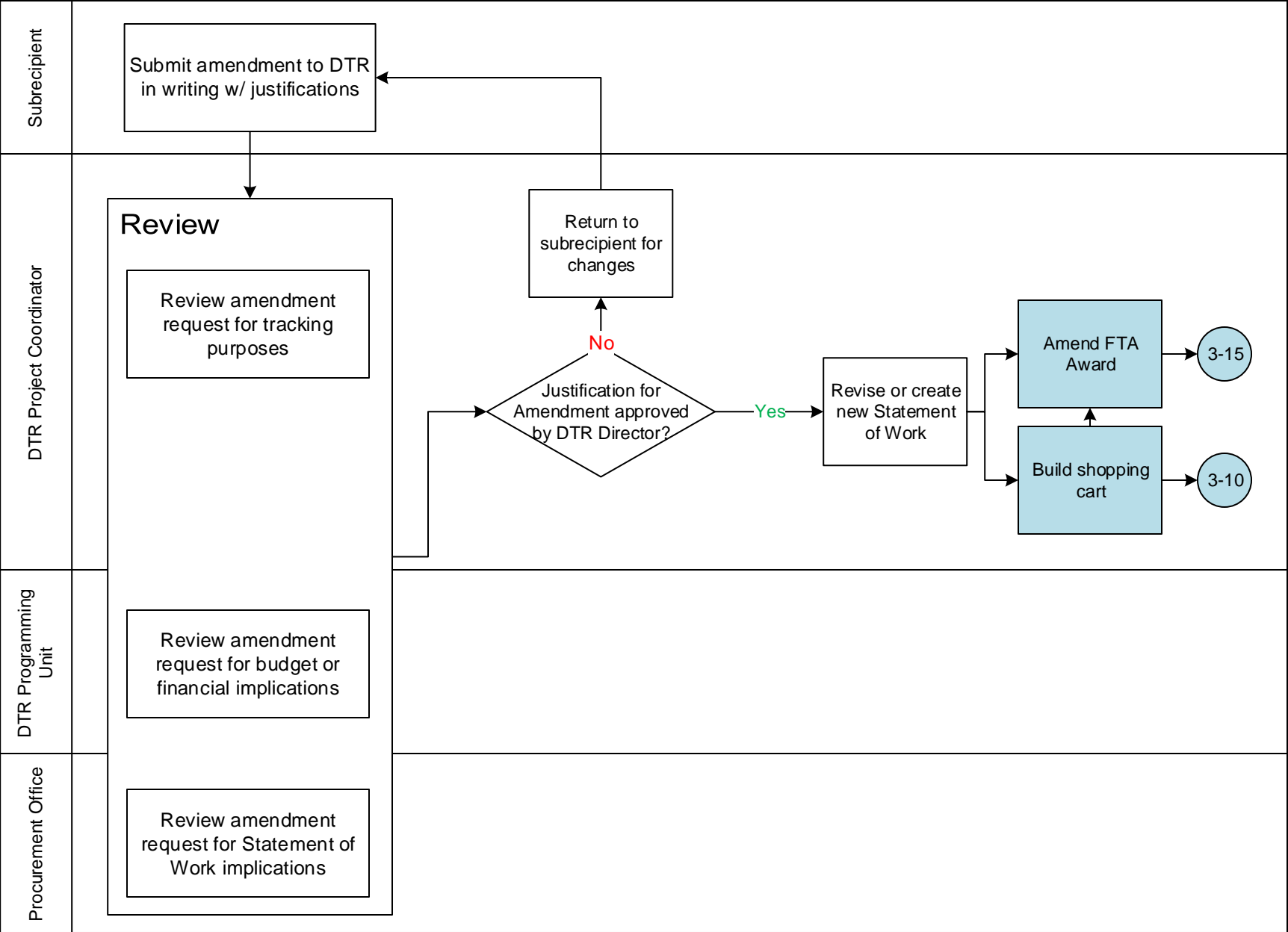
Flowchart 4-1. Subrecipient Information Request (SIR) and Site Review Process

4-1 Subrecipient Information Request (SIR) and Site Review Process



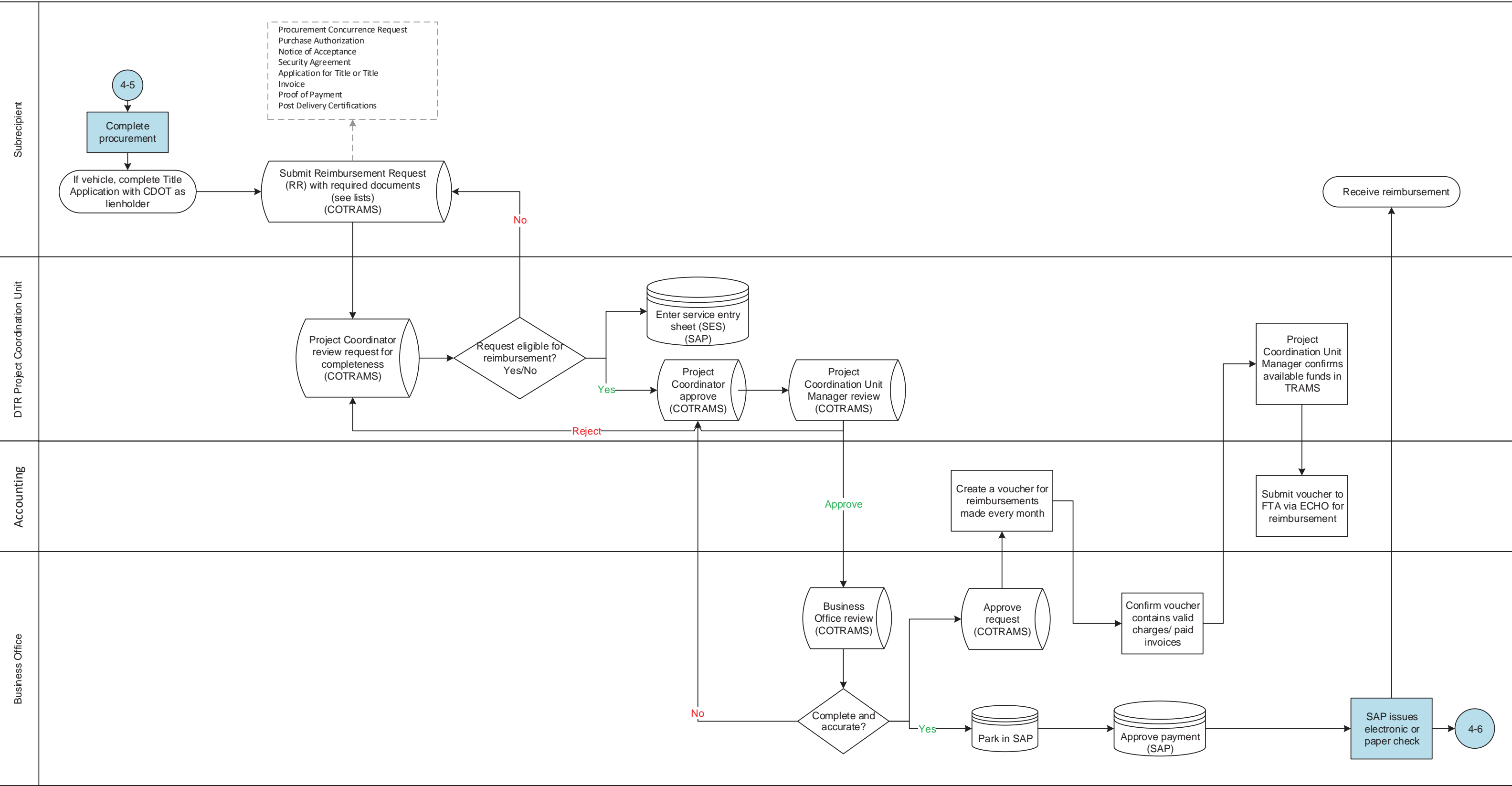
Flowchart 4-2. Amendment for Capital Project

4-2 Amendment for Capital Project



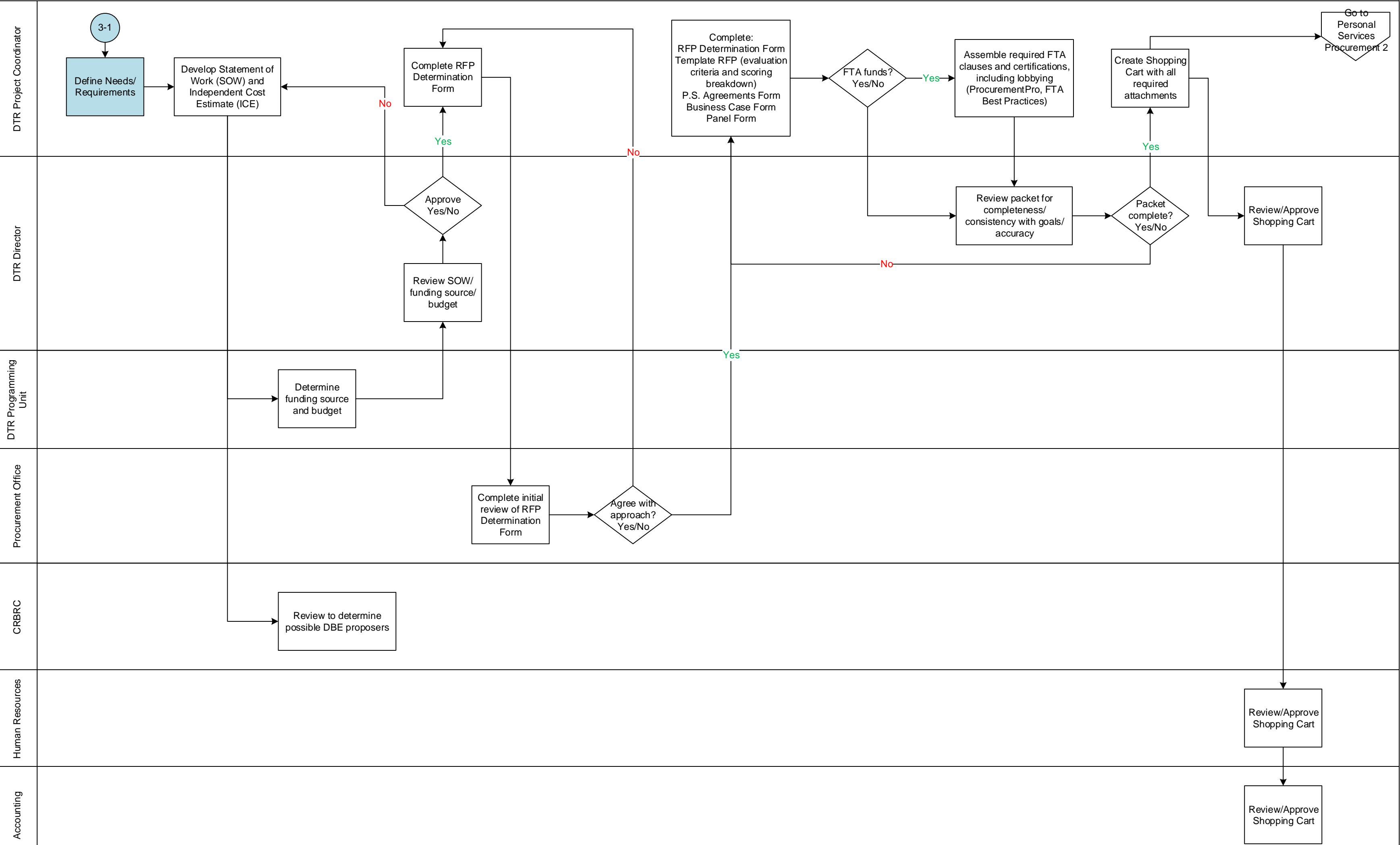
Flowchart 4-3. Capital Project Reimbursement Request

4-3 Capital Project Reimbursement Request

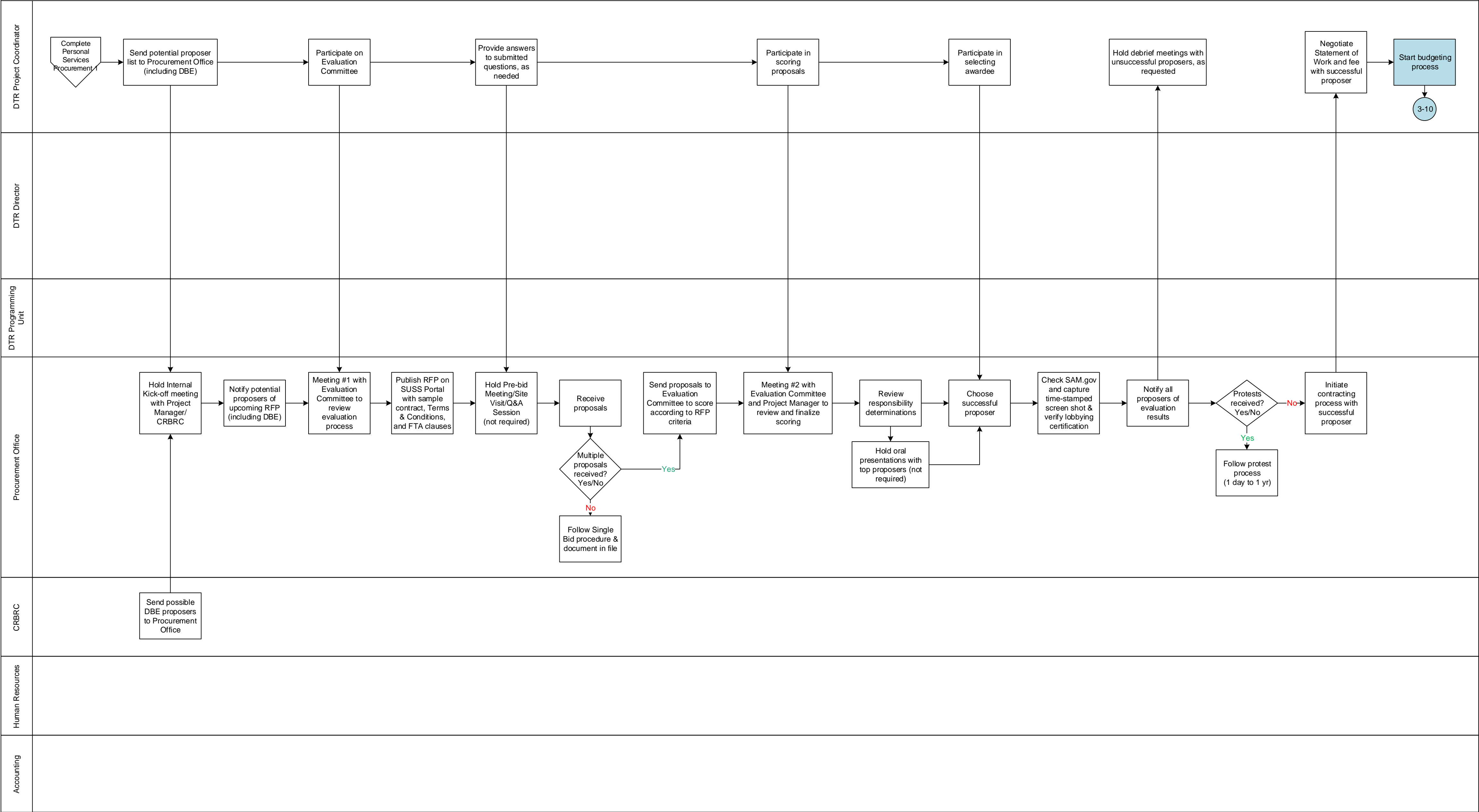


Flowchart 4-4. Personal Services Procurement

4-4 DTR Personal Services Procurement - 1

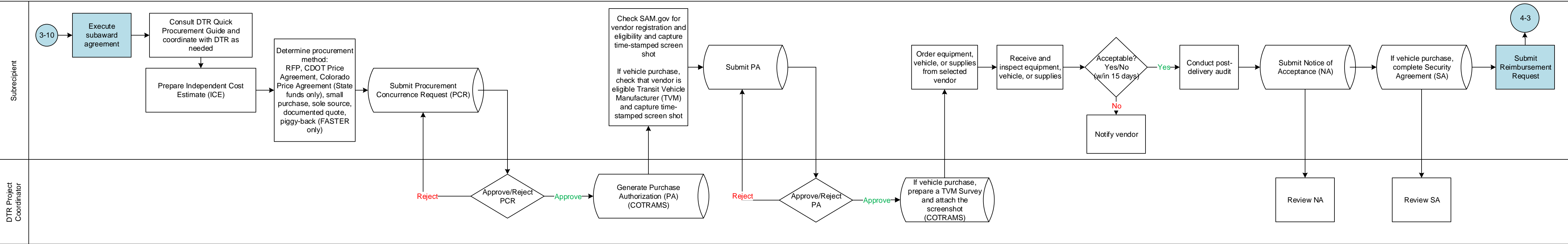


4-4 DTR Personal Services Procurement - 2



Flowchart 4-5. Third-Party Procurement

4-5 Third-Party Procurement



Flowchart 4-6. Project Closeout

4-6 Project Closeout

