

FEDERAL TRANSIT ADMINISTRATION

ARTICLES FOR PROFESSIONAL SERVICES CONTRACTS

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FEDERAL TRANSIT ADMINISTRATION ARTICLES
FOR PROFESSIONAL SERVICES CONTRACTS

I.

FLY AMERICA REQUIREMENTS

49 U.S.C. §40118
41 CFR Part 301-10

The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the Federal DOT has determined meets the requirements of the Fly America Act.

The Fly America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

Fly America

1. The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act.
2. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements.
3. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

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II.
GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

2 CFR Part 180
2 CFR Part 1200

2 CFR Parts 180 and 1200 prohibit FTA recipients and sub-recipients from contracting for goods and services from organizations that have been suspended or debarred from receiving Federally-assisted contracts. As part of their applications each year, recipients are required to submit a certification to the effect that they will not enter into contracts over \$25,000 with suspended or debarred Contractors and that they will require their Contractors (and their subcontractors) to make the same certification to them. Contractors are also required to confirm whether a prospective lower-tier participant is debarred or suspended.

Contractors are required to pass this requirement on to subcontractors seeking subcontracts over \$25,000. Thus, the terms "lower tier covered participant" and "lower tier covered transaction" include both Contractors and subcontractors and contracts and subcontracts over \$25,000.

Debarment and Suspension

This Contract is subject to the Federal Transit Administration's (FTA's) debarment and suspension requirements in 2 CFR Parts 180 and 1200. The Contractor agrees to abide by the following certifications submitted with its bid/proposal: "Certification of Contractor Regarding Debarment, Suspension, and Other Responsibility Matters"; "Certification of Contractor Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction"; and corresponding certifications for subcontractors. The Contractor also agrees to (i) confirm whether a prospective participant in a lower tier covered transaction is debarred or suspended by checking the exclusion records maintained at <https://sam.gov/content/entity-information>; and (ii) pass on the same requirement to prospective lower tier participants.

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III.

LOBBYING

31 U.S.C. 1352
49 CFR Part 19
49 CFR Part 20

The Lobbying requirements apply to PROFESSIONAL SERVICES /Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, § 7.

The Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A. Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*] - Lobbying Certification and Disclosure of Lobbying Activities for Third-Party Contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d) - Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that Contractors file the certification required by 49 CFR Part 20, Appendix A. Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995. - Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A. **Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]** - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." 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 shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

Lobbying

This Contract is subject to the Federal Transit Administration's (FTA's) Lobbying requirements in 31 U.S.C. 1352, 49 CFR Part 19 and 49 CFR Part 20. The Contractor agrees to abide by its "Certification Regarding Lobbying" submitted with its bid/proposal.

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IV.
ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325
2 CFR 200.333
18 CFR 18.36 (i)
49 CFR 633.17

Reference Chart "Requirements for Access to Records and Reports by Type of Contracts". FTA does not require the inclusion of these requirements in subcontracts.

Access to Records

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and PROFESSIONAL SERVICES sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1 which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and PROFESSIONAL SERVICES sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$250,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

- 1 4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA
 2 Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital
 3 project or improvement (defined at 49 U.S.C. 5302(a)1) through other than
 4 competitive bidding, the Contractor shall make available records related to the
 5 contract to the Purchaser, the Secretary of Transportation and the Comptroller
 6 General or any authorized officer or employee of any of them for the purposes of
 7 conducting an audit and inspection.
- 8 5. The Contractor agrees to permit any of the foregoing parties to reproduce by any
 9 means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 10 6. The Contractor agrees to maintain all books, records, accounts and reports required
 11 under this contract for a period of not less than three years after the date of
 12 termination or expiration of this contract, except in the event of litigation or
 13 settlement of claims arising from the performance of this contract, in which case
 14 Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the
 15 Comptroller General, or any of their duly authorized representatives, have disposed of
 16 all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR
 17 18.39(i)(11) and CFR 200.333.
- 18 7. FTA does not require the inclusion of these requirements in subcontracts.

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 20 **Requirements for Access to Records and Reports by Types of Contract**
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Contract Characteristics	Operational Service Contract	Turnkey	Architectural Engineering	Acquisition of Rolling Stock	Professional Services
<u>I State Grantees</u>					
a. Contracts below SAT (\$100,000)	None	Those imposed on state pass thru to Contractor	None	None	None
b. Contracts above \$100,000/Capital Projects	None unless ¹ non-competitive award		None unless non-competitive award	None unless non-competitive award	None unless non-competitive award

22 Sources of Authority: ¹ 49 USC 5325 (a) ² 49 CFR 633.17 ³ 18 CFR 18.36 (i)
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V.
SEISMIC SAFETY REQUIREMENTS

42 U.S.C. 7701 et seq.
49 CFR Part 41

The Seismic Safety requirements apply only to contracts for the construction of new buildings or additions to existing buildings.

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micropurchases.

The Seismic Safety requirements flow down from FTA recipients and subrecipients to first tier contractors to assure compliance with the applicable building standards for Seismic Safety, including the work performed by all subcontractors.

Seismic Safety

The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

VI.
ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.
49 CFR Part 18

The Energy Conservation requirements are applicable to all contracts.

The Energy Conservation requirements extend to all Third-Party contractors and their contracts at every tier and subrecipients and their subagreements at every tier.

Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

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VII.
CLEAN WATER REQUIREMENTS

33 U.S.C. 1251 - 1387

The Clean Water requirements apply to each contract and subcontract which exceeds \$150,000.
The Clean Water requirements flow down to FTA recipients and subrecipients at every tier.

Clean Water

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

VIII.
CLEAN AIR

42 U.S.C. 7401 et seq.
40 CFR 15.61
49 CFR Part 18

The Clean Air requirements apply to all contracts exceeding \$150,000, including indefinite quantities where the amount is expected to exceed \$150,000 in any year.
The Clean Air requirements flow down to all subcontracts which exceed \$150,000.

Clean Air

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

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IX.
FEDERAL CHANGES

49 CFR Part 18

The Federal Changes requirement applies to all contracts.
The Federal Changes requirement flows down appropriately to each applicable changed requirement.

Federal Changes

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

X.
NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicable to all contracts.
Not required by statute or regulation for either primary Contractors or subcontractors, this concept should flow down to all levels to clarify, to all parties to the contract, that the Federal Government does not have contractual liability to third parties, absent specific written consent.

No Obligation by the Federal Government

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

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

31 U.S.C. 3801 et seq.
49 CFR Part 31, 18 U.S.C. 1001
49 U.S.C. 5323(I)(1)

<p>These requirements are applicable to all contracts. These requirements flow down to Contractors and subcontractors who make, present, or submit covered claims and statements.</p>

Program Fraud and False or Fraudulent Statements or Related Acts

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(I) on the Contractor, to the extent the Federal Government deems appropriate.
3. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

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XII.

CIVIL RIGHTS

29 U.S.C. § 621 et seq., 42 U.S.C. § 2000
42 U.S.C. § 6102, 42 U.S.C. § 12101, 42 U.S.C. § 12112
42 U.S.C. § 12132, 49 U.S.C. § 5332
29 C.F.R. Part 1625 et seq., 41 C.F.R. Parts 60 et seq.
49 C.F.R. Part 25 et seq.,

The Civil Rights Requirements apply to all contracts.
The Civil Rights requirements flow down to all Third-Party Contractors and subcontractors at every tier.
This provision is a restatement of the FTA Master Agreement (2/7/2022), Section 12.

- (a) **Civil Rights Requirements.** The Recipient agrees that it must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or a federal program, including the Indian Tribe Recipient or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with each civil rights statute, including compliance with equity in service requirements.
- (b) **Nondiscrimination in Federal Public Transportation Programs.** The Recipient agrees to, and assures that it and each Third Party Participant will:
- (1) Prohibit discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age.
 - (2) Prohibit the:
 - (i) **Exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332;**
 - (ii) Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332; or
 - (iii) Discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.
 - (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; but

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(ii) FTA does not require an Indian tribe to comply with FTA program specific guidelines for Title VI when administering its underlying agreement supported with federal assistance under the Tribal Transit Program

(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 CFR 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.;

- 1 (ii) Comply with Title I of the Americans with Disabilities Act of 1990, as
2 amended, 42 U.S.C. §§ 12101, et seq.;
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- 4 (iii) Facilitate compliance with Executive Order No. 11246, “Equal
5 Employment Opportunity” September 24, 1965 (42 U.S.C. § 2000e
6 note), as amended by any later Executive Order that amends or
7 supersedes it in part and is applicable to federal assistance programs;
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- 9 (iv) Comply with federal transit law, specifically 49 U.S.C. § 5332, as
10 provided in section 12 of this Master Agreement;
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- 12 (v) FTA Circular 4704.1 “Equal Employment Opportunity (EEO)
13 Requirements and Guidelines for Federal Transit Administration
14 Recipients;” and
15
- 16 (vi) Follow other federal guidance pertaining to EEO laws, regulations,
17 and requirements.
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- 19 (2) *Specifics.* The Recipient agrees to, and assures that each Third Party Participant
20 will:
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- 22 (i) *Affirmative Action.* If required to do so by U.S. DOT regulations (49
23 CFR Part 21) or U.S. Department of Labor regulations (41 C.F.R.
24 chapter 60), take affirmative action that includes, but is not limited to:
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- 26 (A) Recruitment advertising, recruitment, and employment;
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- 28 (B) Rates of pay and other forms of compensation;
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- 30 (C) Selection for training, including apprenticeship, and upgrading;
31 and
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- 33 (D) Transfers, demotions, layoffs, and terminations; but
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- 35 (ii) *Indian Tribe.* Recognize that Title VII of the Civil Rights Act of 1964,
36 as amended, exempts Indian Tribes under the definition of
37 “Employer;” and
- 38 (3) *Equal Employment Opportunity Requirements for Construction Activities.*
39 Comply, when undertaking “construction” as recognized by the U.S. Department
40 of Labor (U.S. DOL), with:
41
- 42 (i) U.S. DOL regulations, “Office of Federal Contract Compliance
43 Programs, Equal Employment Opportunity, Department of Labor,” 41
44 C.F.R. chapter 60; and
45

1 (ii) Executive Order No. 11246, "Equal Employment Opportunity in
2 Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note
3 (30 Fed. Reg. 12319, 12935), as amended by any later Executive
4 Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e
5 note.
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7 (e) **Disadvantaged Business Enterprise.** To the extent authorized by applicable
8 federal laws, regulations, or requirements, the Recipient agrees to facilitate, and
9 assures that each Third Party Participant will facilitate, participation by small
10 business concerns owned and controlled by socially and economically
11 disadvantaged individuals, also referred to as "Disadvantaged Business
12 Enterprises" (DBEs), in the Underlying Agreement as follows:
13

14 (1) *Statutory and Regulatory Requirements.* The Recipient agrees to comply with:

15 (i) Section 11101(e) of IIJA;

16 (ii) U.S. DOT regulations, "Participation by Disadvantaged Business
17 Enterprises in Department of Transportation Financial Assistance
18 Programs," 49 CFR Part 26; and
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20 (iii) Federal transit law, specifically 49 U.S.C. § 5332, as provided in
21 section 12 of this Master Agreement.
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23 (2) *DBE Program Requirements.* A Recipient that receives planning, capital and/or
24 operating assistance and that will award prime third party contracts exceeding
25 \$250,000 in a federal fiscal year must have a DBE program that is approved by
26 FTA and meets the requirements of 49 CFR Part 26.
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28 (3) *Special Requirements for a Transit Vehicle Manufacturer (TVM).* The Recipient
29 agrees that:
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31 (i) *TVM Certification.* Each TVM, as a condition of being authorized to
32 bid or propose on FTA-assisted transit vehicle procurements, must
33 certify that it has complied with the requirements of 49 CFR Part 26;
34 and
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36 (ii) *Reporting TVM Awards.* Within 30 days of any third party contract
37 award for a transit vehicle purchase, the Recipient must submit to FTA
38 the name of the TVM contractor and the total dollar value of the third
39 party contract using the Transit Vehicle Award Reporting Form on
40 FTA's website. The Recipient must also submit additional
41 notifications if options are exercised in subsequent years to ensure that
42 the TVM is still in good standing.
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1 (4) *Assurance.* As required by 49 C.F.R. § 26.13(a):
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3 (i) Recipient Assurance. The Recipient agrees and assures that:
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5 (A) It must not discriminate based on race, color, national origin, or
6 sex in the award and performance of any FTA or U.S. DOT-
7 assisted contract, or in the administration of its DBE program or
8 the requirements of 49 CFR Part 26;
9

10 (B) It must take all necessary and reasonable steps under 49 CFR Part
11 26 to ensure nondiscrimination in the award and administration of
12 U.S. DOT-assisted contracts;
13

14 (C) Its DBE program, as required under 49 CFR Part 26 and as
15 approved by U.S. DOT, is incorporated by reference and made
16 part of the Underlying Agreement; and
17

18 (D) Implementation of its DBE program approved by U.S. DOT is a
19 legal obligation and failure to carry out its terms shall be treated as
20 a violation of this Master Agreement.
21

22 (ii) *Subrecipient/Third Party Contractor/Third Party Subcontractor*
23 *Assurance.* The recipient agrees and assures that it will include the
24 following assurance in each subagreement and third party contract it
25 signs with a Subrecipient or Third Party Contractor and agrees to
26 obtain the agreement of each of its Subrecipients, Third party
27 Contractors, and Third Party Subcontractors to include the following
28 assurance in every subagreement and third party contract it signs:
29

30 (A) The Subrecipient, each Third Party Contractor, and each Third
31 Party Subcontractor must not discriminate based on race, color,
32 national origin, or sex in the award and performance of any FTA
33 or U.S. DOT-assisted subagreement, third party contract, and
34 third party subcontract, as applicable, and the administration of its
35 DBE program or the requirements of 49 CFR Part 26;
36

37 (B) The Subrecipient, each Third Party Contractor, and each Third
38 Party Subcontractor must take all necessary and reasonable steps
39 under 49 CFR Part 26 to ensure nondiscrimination in the award
40 and administration of U.S. DOT-assisted subagreements, third
41 party contracts, and third party subcontracts, as applicable;
42

43 (C) Failure by the Subrecipient and any of its Third Party Contractors
44 or Third Party Subcontractors to carry out the requirements of this

1 (4) U.S. Health and Human Services regulations, “Nondiscrimination on the Basis
2 of Age in Programs or Activities Receiving Federal Financial Assistance,” 45
3 CFR Part 90; and
4

5 (5) Federal transit law, specifically 49 U.S.C. § 5332.
6
7

8 (h) **Nondiscrimination on the Basis of Disability.** The Recipient agrees to comply
9 with the following federal prohibitions against discrimination based on disability:
10

11 (1) Federal laws, including:
12

13 (i) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §
14 794, which prohibits discrimination based on disability in the
15 administration of federally assisted Programs, Projects, or activities;
16

17 (ii) The Americans with Disabilities Act of 1990 (ADA), as amended, 42
18 U.S.C. § 12101, et seq., which requires that accessible facilities and
19 services be made available to individuals with disabilities:
20

21 (A) For FTA Recipients generally, Titles I, II, and III of the ADA
22 apply; but
23

24 (B) For Indian Tribes, Titles II and III of the ADA apply, but Title I of
25 the ADA does not apply because it exempts Indian Tribes from the
26 definition of “employer;”
27

28 (iii) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151, et
29 seq., which requires that buildings and public accommodations be
30 accessible to individuals with disabilities;
31

32 (iv) Federal transit law, specifically 49 U.S.C. § 5332, which now includes
33 disability as a prohibited basis for discrimination; and
34

35 (v) Other applicable federal laws, regulations, and requirements pertaining to
36 access for seniors or individuals with disabilities.
37

38 (2) Federal regulations and guidance, including:
39

40 (i) U.S. DOT regulations, “Transportation Services for Individuals with
41 Disabilities (ADA),” 49 CFR Part 37;
42

43 (ii) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in
44 Programs and Activities Receiving or Benefiting from Federal Financial
45 Assistance,” 49 CFR Part 27;

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- (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,” 49 CFR Part 38;
- (iv) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 CFR Part 39;
- (v) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 CFR Part 35;
- (vi) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 CFR Part 36;
- (vii) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR Part 1630;
- (viii) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 CFR Part 64, subpart F;
- (ix) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR Part 1194;
- (x) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 CFR Part 609;
- (xi) FTA Circular 4710.1, “Americans with Disabilities Act: Guidance;” and
- (xii) Other applicable federal civil rights and nondiscrimination regulations and guidance.

- (i) **Drug or Alcohol Abuse – Confidentiality and Other Civil Rights Protections.** The Recipient agrees to comply with the confidentiality and civil rights protections of:
 - (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101, et seq.;
 - (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541, et seq.; and
 - (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2.

1 (j) **Access to Services for Persons with Limited English Proficiency.** The Recipient
2 agrees to promote accessibility of public transportation services to persons with
3 limited understanding of English by following:
4

5 (1) Executive Order No. 13166, “Improving Access to Services for Persons with
6 Limited English Proficiency,” August 11, 2000, 42 U.S.C. § 2000d-1 note, (65
7 Fed. Reg. 50121); and
8

9 (2) U.S. DOT Notice, “DOT Policy Guidance Concerning Recipients’
10 Responsibilities to Limited English Proficiency (LEP) Persons,” 70 Fed. Reg.
11 74087, December 14, 2005.
12

13
14 (k) **Other Nondiscrimination Laws, Regulations, Requirements, and Guidance.** The
15 Recipient agrees to comply with other applicable federal nondiscrimination laws,
16 regulations, and requirements, and follow federal guidance prohibiting
17 discrimination.
18

19
20 (l) **Remedies.** Remedies for failure to comply with applicable federal Civil Rights laws,
21 regulations, and requirements, and failure to follow guidance may be enforced as
22 provided in those federal laws, regulations, requirements, or guidance.
23

24
25 (m) **Promoting Free Speech and Religious Liberty.** The recipient shall ensure that
26 Federal funding is expended in full accordance with the U.S. Constitution, Federal
27 Law, and statutory and public policy requirements: including, but not limited to,
28 those protecting free speech, religious liberty, public welfare, the environment, and
29 prohibiting discrimination.
30

31 (n) **Equal Opportunity Clause.** During the performance of this contract, the contractor
32 agrees as follows:
33

34 (1) The contractor will not discriminate against any employee or applicant for
35 employment because of race, color, religion, sex, sexual orientation, gender
36 identity, or national origin. The contractor will take affirmative action to
37 ensure that applicants are employed, and that employees are treated during
38 employment without regard to their race, color, religion, sex, sexual
39 orientation, gender identity, or national origin. Such action shall include, but
40 not be limited to the following:
41

42 (a) Employment, upgrading, demotion, or transfer; recruitment or
43 recruitment advertising; layoff or termination; rates of pay or other
44 forms of compensation; and selection for training, including
45 apprenticeship. The contractor agrees to post in conspicuous places,

1 available to employees and applicants for employment, notices to be
2 provided setting forth the provisions of this nondiscrimination clause.
3

4 (2) The contractor will, in all solicitations or advertisements for employees placed
5 by or on behalf of the contractor, state that all qualified applicants will receive
6 consideration for employment without regard to race, color, religion, sex,
7 sexual orientation, gender identity, or national origin.
8

9 (3) The contractor will not discharge or in any other manner discriminate against
10 any employee or applicant for employment because such employee or
11 applicant has inquired about, discussed, or disclosed the compensation of the
12 employee or applicant or another employee or applicant. This provision shall
13 not apply to instances in which an employee who has access to the
14 compensation information of other employees or applicants as a part of such
15 employee's essential job functions discloses the compensation of such other
16 employees or applicants to individuals who do not otherwise have access to
17 such information, unless such disclosure is in response to a formal complaint
18 or charge, in furtherance of an investigation, proceeding, hearing, or action,
19 including an investigation conducted by the employer, or is consistent with the
20 contractor's legal duty to furnish information.
21

22 (4) The contractor will send to each labor union or representative of workers with
23 which he has a collective bargaining agreement or other contract or
24 understanding, a notice to be provided advising the said labor union or
25 workers' representatives of the contractor's commitments under this section
26 and shall post copies of the notice in conspicuous places available to
27 employees and applicants for employment.
28

29 (5) The contractor will comply with all provisions of Executive Order 11246 of
30 September 24, 1965, and of the rules, regulations, and relevant orders of the
31 Secretary of Labor.
32

33 (6) The contractor will furnish all information and reports required by Executive
34 Order 11246 of September 24, 1965, and by rules, regulations, and orders of
35 the Secretary of Labor, or pursuant thereto, and will permit access to his
36 books, records, and accounts by the administering agency and the Secretary of
37 Labor for purposes of investigation to ascertain compliance with such rules,
38 regulations, and orders.
39

40 (7) In the event of the contractor's noncompliance with the nondiscrimination
41 clauses of this contract or with any of the said rules, regulations, or orders,
42 this contract may be canceled, terminated, or suspended in whole or in part
43 and the contractor may be declared ineligible for further Government
44 contracts or federally assisted construction contracts in accordance with
45 procedures authorized in Executive Order 11246 of September 24, 1965, and

1 such other sanctions may be imposed and remedies invoked as provided in
2 Executive Order 11246 of September 24, 1965, or by rule, regulation, or order
3 of the Secretary of Labor, or as otherwise provided by law.

4
5 (8) The contractor will include the portion of the sentence immediately preceding
6 paragraph (1) and the provisions of paragraphs (1) through (8) in every
7 subcontract or purchase order unless exempted by rules, regulations, or orders
8 of the Secretary of Labor issued pursuant to section 204 of Executive Order
9 11246 of September 24, 1965, so that such provisions will be binding upon
10 each subcontractor or vendor. The contractor will take such action with
11 respect to any subcontract or purchase order as the administering agency may
12 direct as a means of enforcing such provisions, including sanctions for
13 noncompliance:

14
15 (a) *Provided*, however, that in the event a contractor becomes involved in,
16 or is threatened with, litigation with a subcontractor or vendor as a
17 result of such direction by the administering agency, the contractor
18 may request the United States to enter into such litigation to protect the
19 interests of the United States.

20
21 (b) The applicant further agrees that it will be bound by the above equal
22 opportunity clause with respect to its own employment practices when
23 it participates in federally assisted construction work: *Provided*, That if
24 the applicant so participating is a State or local government, the above
25 equal opportunity clause is not applicable to any agency,
26 instrumentality or subdivision of such government which does not
27 participate in work on or under the contract.

28
29 (c) The applicant agrees that it will assist and cooperate actively with the
30 administering agency and the Secretary of Labor in obtaining the
31 compliance of contractors and subcontractors with the equal
32 opportunity clause and the rules, regulations, and relevant orders of the
33 Secretary of Labor, that it will furnish the administering agency and
34 the Secretary of Labor such information as they may require for the
35 supervision of such compliance, and that it will otherwise assist the
36 administering agency in the discharge of the agency's primary
37 responsibility for securing compliance.

38
39 (d) The applicant further agrees that it will refrain from entering into any
40 contract or contract modification subject to Executive Order 11246 of
41 September 24, 1965, with a contractor debarred from, or who has not
42 demonstrated eligibility for, Government contracts and federally
43 assisted construction contracts pursuant to the Executive Order and
44 will carry out such sanctions and penalties for violation of the equal
45 opportunity clause as may be imposed upon contractors and

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subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(9) [Reserved]

(10) *Subcontracts.* Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

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XIII.
PROMPT PAYMENT ON SUBCONTRACTS AND
RETURN OF RETAINAGE

49 CFR § 26.29
RCW 39.04.250

The following procedures shall apply to all subcontracts entered into as a part of this Contract.

A. Requirements

1. Upon request, the State's Project Engineer will provide a copy of any or all progress payment estimates, with regard to contract payments to any interested party to the project.
2. The Contractor shall make payment to the Lower Tier Subcontractor not later than ten calendar days after receipt of payment for work satisfactorily completed by the Lower Tier Subcontractor, to the extent of the Lower Tier Subcontractor's interest therein.
3. In the event the Contractor believes they have the right under the Contract or Subcontract to withhold payment in part or whole from a Lower Tier Subcontractor they shall provide immediate notification to that Lower Tier Subcontractor and the Engineer. The notice shall include an accounting of payments to date, the value and reason for the withheld amount, and an explanation of what must be done to have the withheld amount released. The Lower Tier Subcontractor shall be paid within eight calendar days after the Subcontractor completes the remedial action identified.
4. Every subcontract and lower tier subcontract shall have a dispute resolution process incorporated for resolving issues between the parties to the subcontract, or one shall be established as necessary.
5. If the parties agree, the State will make a Third-Party neutral available provided the parties to the dispute agree that the cost of doing so is split between them.
6. The Engineer will withhold the same amount of funds from the Contractor as was withheld if the issue is not resolved by the next progress estimate.

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7. Failure by a Contractor or Subcontractor to comply with these requirements may result in one or more of the following:
 - a. Reflected in the Prime Contractor's Performance Evaluation.
 - b. Cancellation, termination or suspension of the Contract, in whole or in part.
 - c. Sanctions as provided by the Contract; subcontract; or by law under applicable prompt payment statutes including [RCW 39.04.250](#).
8. The Subcontractor shall make a written request to the Contractor for the release of the Subcontractor's retainage or retainage bond.
9. Within 10 calendar days of the request, the Contractor shall determine if the subcontract has been satisfactorily completed including any required lien releases, documentation and material testing and shall inform the Subcontractor, in writing, of the Contractor's determination.
10. If the Contractor determines that the subcontract has been satisfactorily completed, the Subcontractor's retainage or retainage bond shall be released by the Contractor within 10 calendar days from the date of the written notice. If the Contractor determines that the Subcontractor has not achieved satisfactory completion of the subcontract, the Contractor must provide the Subcontractor with written notice, stating specifically why the subcontract Work is not satisfactorily completed and what has to be done to achieve completion. The Contractor shall release the Subcontractor's retainage or retainage bond within 10 calendar days after the Subcontractor has satisfactorily completed the Work identified in the notice.
11. In determining whether satisfactory completion has been achieved, the Contractor may require the Subcontractor to provide documentation such as certifications and releases, showing that all laborers, lower-tiered Subcontractors, suppliers of material and equipment, and others involved in the Subcontractor's Work have been paid in full. The Contractor may also require any documentation from the Subcontractor that is required by the subcontract or by the Contract between the Contractor and Contracting Agency or by law such as affidavits of wages paid, and material acceptance certifications to the extent that they relate to the Subcontractor's Work.
12. If the Contractor fails to comply with the requirements of the Specification and the Subcontractor's retainage or retainage bond is wrongfully withheld, the Contractor will be subject to the actions described in No. 7 above. The Subcontractor may also seek recovery

1 against the Contractor under applicable prompt pay statutes in addition
2 to any other remedies provided for by the subcontract or by law.
3

4 **B. Conditions**

- 5 1. This clause does not create a contractual relationship between the
6 Contracting Agency and any Subcontractor as stated in the current
7 WSDOT Standard Specifications for Road, Bridge and Municipal
8 Construction (Standard Specifications), [Section 1-08.1](#). Also, it is not
9 intended to bestow upon any Subcontractor, the status of a third-party
10 beneficiary to the Contract between the Contracting Agency and the
11 Contractor.
12
- 13 2. This Section of the Contract does not apply to retainage withheld by
14 the Contracting Agency from monies earned by the Contractor. The
15 Contracting Agency shall continue to process the release of that
16 retainage based upon the Completion Date of the project as defined in
17 [Section 1-08.5](#) Time for Completion and in accordance with the
18 requirements and procedures set forth in [RCW 60.28](#).
19

20 **C. Payment**

21 The Contractor shall be solely responsible for any additional costs
22 involved in paying retainage to the Subcontractors prior to total project
23 completion. Those costs shall be incidental to the respective Bid items.
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28 **XIV.**

29 **PATENT AND RIGHTS IN DATA**

30 **37 CFR Part 401**
31 **49 CFR Parts 18 and 19**
32
33

34 Patent and rights in data requirements for federally assisted projects ONLY apply to research
35 projects in which FTA finances the purpose of the grant is to finance the development of a
36 product or information. These patent and data rights requirements do not apply to capital
37 projects or operating projects, even though a small portion of the sales price may cover the
38 cost of product development or writing the user's manual.

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40 Not applicable.
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XV.
CONFORMANCE WITH ITS
NATIONAL ARCHITECTURE

23 U.S.C. 517

The Conformance with ITS National Architecture requirements apply to contracts for Intelligent Transportation System (ITS) projects.

Not applicable.

XVI.
SAFE OPERATION OF MOTOR VEHICLES

23 U.S.C. 402
Executive Order No. 13043
Executive Order No. 13513
U.S. DOT Order No. 3902.10

The Safe Operation of Motor Vehicles requirements apply to all federally funded Third-Party contracts.

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company - owned vehicles, company - rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or WSDOT.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

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XVII.
SUBSTANCE ABUSE REQUIREMENTS

49 U.S.C. 5331
49 CFR Part 655
49 CFR Part 40

<p>Third-Party Contractors who perform safety-sensitive functions must comply with FTA’s substance abuse management program under 49 C.F.R. part 655, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.” Under 49 C.F.R. § 655.4, Safety-sensitive function means any of the following duties, when performed by employees of recipients, subrecipients, operators, or Contractors: maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. The Substance Abuse requirements flow down to all Third-Party Contractors at every tier who perform a safety-sensitive function for the recipient or subrecipient.</p>
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Substance Abuse Testing

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. parts 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Washington State, or WSDOT/WSF to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with parts 655 before March 1 and to submit the Management Information System (MIS) reports before March 10 to the State’s Vessel Construction Manager. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

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XVIII.

BREACHES AND DISPUTE RESOLUTION

**Section 39, FTA Master Agreement
49 CFR Part 18
FTA Circular 4220.1F**

The Contractor shall comply with the “Termination of Contract”, Disputes and Claims”, “Claims Resolution” and other applicable Sections of the WSDOT Standard Specifications.

The below is a restatement of the FTA Master Agreement (2/7/2022), Section 39(a) – (b). It applies to all contracts valued at more than \$100,000.

- (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) Additional Notice to U.S. DOT Inspector General. 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,

1 bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar
2 misconduct involving federal assistance. This responsibility occurs whether
3 the Project is subject to this Agreement or another agreement between the
4 Recipient and FTA, or an agreement involving a principal, officer, employee,
5 agent, or Third Party Participant of the Recipient. It also applies to
6 subcontractors at any tier. Knowledge, as used in this paragraph, includes, but
7 is not limited to, knowledge of a 95 criminal or civil investigation by a
8 Federal, state, or local law enforcement or other investigative agency, a
9 criminal indictment or civil complaint, or probable cause that could support a
10 criminal indictment, or any other credible information in the possession of the
11 Recipient. In this paragraph, “promptly” means to refer information without
12 delay and without change. This notification provision applies to all divisions
13 of the Recipient, including divisions tasked with law enforcement or
14 investigatory functions.
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18 XIX.

19 SIMPLIFIED ACQUISITION THRESHOLD

20
21 41 U.S.C. 1908

22 2 C.F.R. §§ 200.317 – 200.326
23

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The simplified acquisition threshold applies to contracts of at least \$250,000.
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25
26 Contracts for more than the simplified acquisition threshold, currently set at \$250,000, which
27 is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and
28 the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908,
29 or otherwise set by law, must address administrative, contractual, or legal remedies in
30 instances where contractors violate or breach contract terms, and provide for such sanctions
31 and penalties as appropriate. (Note that the simplified acquisition threshold determines the
32 procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.326.
33 The simplified acquisition threshold does not exempt a procurement from other eligibility or
34 processes requirements that may apply. For example, Buy America’s eligibility and process
35 requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).)
36
37

38 XX.

39 TERMINATION

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41 The Contractor shall comply with the “Termination of Agreement” and other applicable
42 Sections of the applicable Professional Services Consultant Agreement and the WSDOT
43 Consultant Services Manual.
44

1 **XXI.**

2 **SPECIAL NOTIFICATION REQUIREMENTS FOR STATES**

3
4 **Section 37, FTA Master Agreement for**
5 **agreements authorized by**
6 **49 U.S.C. chapter 53 and Title 23, U.S.C.**
7
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This provision is a restatement of the FTA Master Agreement (2/7/2022), Section 37.

10
11 To the extent required under federal law, the State, as the Recipient, agrees to provide the
12 following information about federal assistance awarded for its State Program, Project or related
13 activities:

14 a. Types of Information. The State will provide information including:

- 15 (1) The Identification of FTA as the federal agency providing the federal assistance
16 for a State Program or Project,
17 (2) The Catalog of Federal Domestic Assistance Number of the Program from which
18 the federal assistance for a State Program or Project is authorized, and
19 (3) The amount of Federal funds FTA has provided for the Program or Project.
20
21

22 b. Documents. The State will provide the information required under this provision in the
23 following documents:

- 24 (1) Applications for federal assistance,
25 (2) Requests for proposals, or Solicitations,
26 (3) Forms,
27 (4) Notifications,
28 (5) Press releases, and
29 (6) Other publications.
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XXII.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION TERMS

FTA Circular 4220.1F

<p>The incorporation of FTA terms applies to all contracts. The incorporation of FTA terms has unlimited flow down.</p>

Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, at [Third Party Contracting Guidance \(Circular 4220.1F\) \(dot.gov\)](#); and the FTA Master Agreement, at [FTA Master Agreement v29 \(dot.gov\)](#), are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any State requests which would cause the State to be in violation of the FTA terms and conditions.

(END)