



Metropolitan Washington  
**Council of Governments**

REQUEST FOR PROPOSAL 20-004

**WMATA SHUTDOWN: PROCEDURES AND STATION  
EMERGENCY RESPONSE AND EVACUATION PLAN  
COMPUTER BASED TRAINING**

**Electronic submissions are required to be submitted for  
this RFP to COG's solicitation "LOCKBOX"**

*NOTE: See LOCKBOX submission instructions in Section XI.A.3*

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

December 12, 2019

# WMATA SHUTDOWN: PROCEDURES AND STATION EMERGENCY RESPONSE AND EVACUATION PLAN COMPUTER BASED TRAINING

## REQUEST FOR PROPOSAL 20-004

Date 11/21/2019

### I. INTRODUCTION

The Metropolitan Washington Council of Governments (“COG”) is the regional organization of 24 of the Washington area's major local governments and their governing officials, plus area members of the Maryland and Virginia legislatures and the U.S. Senate and House of Representatives. COG provides a focus for action on issues of regional concern such as comprehensive transportation planning, air and water quality management plans, environmental monitoring, tracking economic development and population growth and their implications on the region, coordinating public safety programs, and promoting adequate child care and housing for the region. COG is supported by financial contributions from its participating local governments, federal and state government grants and contracts and through donations from foundations and the private sector. More information on COG may be found at [www.mwcog.org](http://www.mwcog.org).

### II. REQUIRED SERVICES

Develop five (5) 30-45 minute Computer Based Training (“CBT”) courses covering Metro Emergency Response priorities including NIMS/ICS, accessing the Metro roadway safely, and strategies for responding to different threats. Delivery of the courses will include the ability to download CBT courses to jurisdictional training sites throughout the NCR. The curriculum for the five (5) CBT courses will be finalized by a regional development task force. Training will include: Metrorail System Basics; Scene Safety in the Rail System; Railcar/Station Evacuation Strategies; Strategies for CBRN Response; Active Shooter/Attacker in the Rail System; Command Level Considerations During a Metro Response; Response Strategies for Unattended versus Suspicious Packages; and Pursuit Strategies in the Rail System.

### III. SCOPE OF WORK

A. Identify course development task force including representatives from regional first responders (MD, VA, & DC) and internal WMATA departments.

B. Design training courses.

1. Design of each training course includes:

- a. Design using Articulate Storyline authoring software (or Adobe Captivate 8)
- b. Voiceover narration, choice of male or female, or a mix
- c. Closed Caption for video segments, narration transcript for interactive screens

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- d. Up to five (5) customized video vignettes (each up to 3 minutes duration)
- e. High resolution photos and graphics
- f. Custom animated illustrations of processes, procedures, mechanisms or concepts
- g. Self-paced tracking
- h. Embedded quizzes and web links
- i. Output to Learning Management System (“LMS”) standard packages including SCORM, AICC, Blackboard, and Tin Can, making them transportable between LMSs
- j. Training must be available to jurisdictions who do not have a Learning Management System.
- k. Training certification [LMS-driven and delivery-method dependent]
- l. Training scoring and reporting [LMS-driven and client-data-format dependent]

### C. Develop five (5) training courses

Development of each training course includes:

1. Conduct series of meetings
2. Develop class objectives
3. Develop and validate curricula
4. Collect audio and visual
5. Produce CBT Course
6. Conduct Focus Group of LE Representatives to Validate and Test Course
7. Deliver to Regional Partners

### D. Close Out Report

Close out Report will be developed using feedback from individual validation sessions to assist with updates to current courses and development of future Computer Based Training courses.

### E. Budget shall be broken down for each training

## IV. PROJECT MANAGEMENT REQUIREMENTS

### A. Project Management Requirements

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1. Project Management Plan
  - a. Develop a Project Management Plan that is accepted by the HSEMA Task Manager that defines the following (determined during and immediately after the Project Kick-Off Meeting):
    - 1) Purpose
    - 2) Project Objectives
    - 3) Project Success Criteria
    - 4) Project Deliverables and Milestones
    - 5) Managerial Process, including Staffing Plan and Work Plan
    - 6) Roles and Responsibilities
    - 7) Close-Out
  - b. Update grant required Project Management Plan document to reflect agreed upon deliverables, milestones, and timeline
2. Reports – Complete the following reports using templates and deadlines provided by the Task Lead:
  - a. Weekly – Status of and work completed on deliverables and meetings held  
Monthly – Status of and work completed on deliverables, hours worked by project team on each deliverable, and status of budget compared to proposed budget
    - 1) Input on this monthly report will also be used for invoicing requirements
  - b. Quarterly – Status of spending and completion of each deliverable included on the grant required project management plan document
  - c. Close-Out – Status of projects and close-out requirements and best practices and lessons learned from processes used to complete deliverables
3. Meetings – Participate in the following meetings as directed by the Task Lead:

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- a. Weekly (30-60 minutes) – Conference call or meeting with Task Lead and associated task order teams on the status of the deliverables and barrier identification
  - b. Monthly (1 hour) – In-Progress Review with Senior Leadership to discuss progress, barriers, and budget issues
  - c. Close-Out (1 hour) – Discussion of deliverables, best practices, and lessons learned
4. Manage each task in accordance with the processes (inputs, tools and techniques, and outputs) outlined in *A Guide to the Project Management Body of Knowledge (PMBOK Guide) – Fifth Edition*

### B. Quality Assurance/Quality Control

1. Institute a comprehensive QA/QC process that ensures that deliverables are:
  - a. Technically sound through a comprehensive technical editing process
  - b. 508 compliant
  - c. Adhere to the following standards:
    - 1) Applicable federal, regional, and District doctrine
    - 2) EMAP
    - 3) NIMS
    - 4) SEMS
    - 5) Most recent versions of Comprehensive Planning Guide (CPG) 101, 201, and 301 (Interim)
    - 6) FEMA Operational Planning Manual

### V. REQUIRED SUBJECT MATTER EXPERTISE

- A. Verified experience developing and delivering computer-based training courses
- B. Verified experience compiling and developing course content and curricula

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### VI. DELIVERABLES

- A. Five (5) 30-45 minute Computer Based Training (CBT) courses
- B. Weekly and monthly meetings, as well as, a final closeout meeting.
- C. Closeout Report
- D. Task Order Project Management Plan (PMP)
- E. Update grant required PMP
- F. Update grant quarterly reports
- G. An electronic copy of all collateral collected and/or used in the planning and development of the course to include photos, videos and animation.

### VII. TYPE OF CONTRACT AND PERIOD OF PERFORMANCE

- A. COG intends to award a fixed price contract with a contract amount not to exceed four hundred seventy six thousand one hundred ninety dollars and fifty cents (\$476,190.50) for the items under **Section IV Scope of Work**.
- B. Period of Performance shall commence as of the date of a fully executed contract and the Scope of Work is expected to be completed by December 31, 2020.

### VIII. INSTRUCTIONS, CONDITIONS AND NOTICES TO PROPOSER

- A. COG is the procuring entity, and this procurement transaction will, in all aspects, be governed by COG's own procurement policy and procedures. A copy of COG's procurement policy is available to any potential offeror at <https://www.mwcog.org/documents/2018/10/11/cog-procurement-policy-bids/rfps/>.
- B. COG may award to a single Proposer, or multiple Proposers, as deemed most advantageous to COG and its members. Contract award(s) will only be made to responsible Proposers whose qualifications and offerings conform to the requirements of this RFP.
- C. COG may award a contract based on initial offers received without discussion.

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- D. The contractor must provide at least three (3) references from other government clients where similar work has been performed. See Attachment C.

**IX. DBE Participation**

- A. Disadvantaged Business Enterprise (MBE/DBE) (15%) -
1. DBE participation shall be a component of the Proposer's selection process for this RFP. COG has established a DBE goal of 15% for this project. COG's DBE Policy may be viewed on its website [www.COG.org/purchasing-and-bids/dbe-policy/](http://www.COG.org/purchasing-and-bids/dbe-policy/). Responding firms shall submit with their Proposals a DBE Participation Plan to meet this goal. The plan shall identify any DBE (defined in 49 CFR Part 26) that shall be participating in the project. The plan shall include the name and address of the firm, a copy of the firm's current DBE Certification from any federal, state or local government agency that certifies DBE ownership (please note only DBE certifications will be accepted by COG for this purpose).
  2. COG, in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000 d – 42 and Title 49, Code of Federal Regulations, hereby notifies all proposers that it will affirmatively ensure that any contract entered pursuant to this advertisement will afford minority business enterprises full opportunity to submit proposals in response to this invitation, and will not discriminate on the grounds of race, color, sex, or national origin in consideration for an award.
  3. Federal Law – CFR Part 26.37 (Monitoring Performance) requires the Metropolitan Washington Council of Governments to include a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is performed by DBE's. To comply with this requirement, the awarded vendor(s) will be required to submit a monthly report and supporting documentation (DBE invoices, check registers, etc.) showing timely payments to the DBE's listed in your proposal. This information should be submitted by the 30<sup>th</sup> of April 30<sup>th</sup> and the 31<sup>st</sup> of October 31<sup>st</sup> of each year on all contracts made pursuant to this RFP in conjunction with other required reporting.
  4. A total of 15 possible points (out of a maximum of 100 points) may be awarded for DBE participation, as measured in dollars, either as the Contractor or "Subcontractor". In the event of a tie score between two or more Proposals, the Proposal with the largest percentage of DBE participation, as

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measured in dollars, will be awarded the contract. DBE points are to be awarded as follows:

\*See next page for scoring chart \*

**PARTICIPATION POINTS**

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

**SAMPLE DBE PARTICIPATION PLAN**

DBE SUBCONTRACTOR		PERCENTAGE OF CONTRACT
Subcontractor:		
Address:		
Certifying State:	DBE Certification #	
Subcontractor:		
Address:		
Certifying State:	DBE Certification #	
Subcontractor:		
Address:		
Certifying State:	DBE Certification #	

**X. EVALUATION FACTORS**

The proposals will be evaluated by a Technical Selection Committee. In evaluating the proposals, the following factors will be considered, with points awarded up to the maximum shown:



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Evaluation Factors	Points
Evaluators are looking for specific descriptions of approaches that are SMART (Specific, Manageable, Actionable, Result-based, Time-boxed), innovative, and customized to the WMATA needs and the required deliverables of the RFP.	<b>35</b>
Evaluators are looking for a description of how the proposed team structure and the team members' experience will meet the goals of the task order. For each team member, evaluators will take into account: <ul style="list-style-type: none"> <li>• Extent of knowledge, skills, and abilities (KSA)</li> <li>• Experience in assigned task</li> <li>• Education</li> </ul>	<b>40</b>
Price Analysis	<b>10</b>
DBE Participation	<b>15</b>
<b>Total Points</b>	<b>100</b>

The Technical Selection Committee may hold a pre-selection meeting with the top ranked proposers. The final recommendations for selection to the COG Contracting Officer may be made based upon the interviews and/or a best and final offer, submitted by the proposers if required.

**XI. SUBMISSION OF PROPOSALS**

Proposals are due at the designated time and date and should be submitted in the following format:

**A. PROPOSAL SUBMISSION**

1. Proposals may **not** be submitted through hard copy, fax or other electronic methods except as designated below.
2. Please use the RFP number and your firm name in the file name of your electronic submissions as per below.

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- a. Please attach your price sheet to Section XII below and submit it as a separate submission named **RFP 20-004 (Firm Name) Price**.
  - b. Submit as second file for the technical part of your proposal named **RFP 20-004 (Firm Name) Technical**.
  - c. Submit as a third file Attachment C, below, as a separate submission named **RFP 20-004 (Firm Name) References**.
3. Offerors shall submit one (1) electronic copy of their qualifications to the COG Lockbox system as per the below directions.
- a. Proposers shall submit one electronic copy to the COG “LOCKBOX” system in the following fashion:
    - i. Registration – To utilize the “LOCKBOX” service, your agency must be registered on the Mid-Atlantic Purchasing Team Vendor Registration System (VRS) portal at <https://mwcog.net>.

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

To register:

- Go to the portal at <https://mwcog.net> and click the Vendors listing the left menu on the page.
  - Click Register and fill out the form. NOTE: You will need your company information including your TIN/EIN number if you are a company or your SSN if you are a sole proprietor.
  - Registering will give you access to the LOCKBOX solicitations.
- ii. Submission – Once registered in the VRS system go to the website at <https://mwcog.net> and click on Solicitation Listings tab.

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

Click on the LOCKBOX button.

## WMATA SHUTDOWN: PROCEDURES AND STATION EMERGENCY RESPONSE AND EVACUATION PLAN COMPUTER BASED TRAINING

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

You may also use your credentials for the following:

- To submit a question to the buyer.
- To upload your formal proposal response and any additional attachments to the lockbox (before the closing time for the solicitation).
- Please limit size of individual files to 10 MB.
- To withdraw your formal response should you wish to cancel your submission or to allow you to replace an already uploaded copy with a modified version.
- To verify that the document in the lockbox is the one you uploaded.

If no vendor ID is provided, you will be directed to the registration page. If you would like to ensure that your company details are correct prior to your upload, then logon to VRS using your VRS vendor ID and VIN then jump to the vendor summary page in VRS to make any changes desired.

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

- b. Please do not wait until the last moment to register. If you have technical issues with accessing the Lock Box system please contact [customerservice@eepex.com](mailto:customerservice@eepex.com) and cc: [purchasing@cog.org](mailto:purchasing@cog.org)
- c. Please name the file using the RFP number and the firm name.
- d. DO NOT email submissions directly to COG. Emailed submissions will be disqualified.
- e. Proposals shall be submitted no later than 2:00 p.m. EDT, December 12, 2019.

#### 4. Clarifications via Addenda

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- a. All questions regarding discrepancies, omissions, specifications, proposal instructions, or the proposal form may be directed in writing only at least five (5) business days before the RFP opening to [purchasing@mwkog.org](mailto:purchasing@mwkog.org).
  - b. Exceptions taken do not obligate COG to change the specifications. If no changes are needed, then no addendum will be issued.
  - c. COG will post any addendum at least three (3) business days before the RFP opening with any updated interpretations, specifications, or instructions.
  - d. It is the responsibility of the proposer to check and see if addenda have been issued on the COG Website at [www.COG.org/purchasing-and-bids/cog-bids-and-rfps/](http://www.COG.org/purchasing-and-bids/cog-bids-and-rfps/)
  - e. Proposal responses should indicate that bidders have reviewed the latest addenda on the bid form via the Proposer's Checklist.
5. COG award the purchase to the best scoring, responsible and responsive bidder. COG reserves the right to choose more than one vendor for this award.
  6. Proposers must acknowledge their understanding of the all terms listed in this RFP by signing the Proposal Form (Section X)
  7. COG, as Awarding Authority, reserves the right to cancel this RFP, or reject in whole or in part any all proposals, if COG determines that cancellation or rejection serves the best interests of the organization.

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**XII. Price Proposal Form**

Please attach your price sheet to this form and submit it as a separate submission named **RFP 20-004 (Firm Name) Price.**

Submit the technical part of your proposal named **RFP 20-004 (Firm Name) Technical.**

Addendums acknowledged (if applicable) -

Addendum #1 YES \_\_\_\_\_ NO \_\_\_\_\_ N/A \_\_\_\_\_

Addendum #2 YES \_\_\_\_\_ NO \_\_\_\_\_ N/A \_\_\_\_\_

Others \_\_\_\_\_

<u>Proposer's Checklist</u>	<u>YES</u>	<u>NO</u>
Attachment A Rider Clause Acknowledged	_____	_____
Attachment B Terms and Conditions Acknowledged	_____	_____
Attachment C References (provided)	_____	_____
Exceptions*	_____	_____

\*If yes, please attach all on separate sheet(s) at the end of the submission.

I have read, understood, and agreed to the terms and conditions of all contents of this Proposal. The undersigned agrees to furnish the commodity or service stipulated in this Proposal as stated above.

SIGNATURE: \_\_\_\_\_

NAME: \_\_\_\_\_

COMPANY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

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EMAIL: \_\_\_\_\_

## Attachment A COG Cooperative Rider Clause

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

### A. Format

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

### B. Terms

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

### C. Other Conditions - Contract and Reporting

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

Semi-annual reporting Due Dates beginning from Contract execution:

- November 30, covering May 1 – October 31
  - May 31, covering November 1 – April 30
4. Contractor is required to report any Participating Agency that is added to the contract and a **COG Rider Clause Approval Form** must be filled out by the Participating Agency and approved by COG (see form below).
  5. Significant changes in total contract value may result in further negotiations of contract pricing with the Lead Agency and any Participating Agency.

In pricing and other conditions, contractors are urged to consider the broad reach and appeal of public and non-profit entities in the National Capital region.

## II. Participating Members

### COG Member Governments

- **District of Columbia**

- **Maryland**

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

- **Virginia**

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

- **Other Local Governments**

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

- **Public Authorities/Agencies**

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

- Washington Metropolitan Area Transit Authority
- Washington Suburban Sanitary Commission

- **School Systems**

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

- **State Agencies**

- Maryland-National Capital Park and Planning Commission
- 

### BALTIMORE METROPOLITAN COUNCIL

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



**ATTACHMENT B**  
**Terms and Conditions**

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

This document and the Contract are intended to be complementary and shall be construed accordingly. However, should there be a direct contradiction between the terms and conditions contained herein and the Contract, then the Contract shall govern and control those contradictory terms and conditions. As used herein, the term "MWCOG" includes MWCOG, its various members, agencies, employees or agents as may be appropriate. The term "Contract" shall include a document entitled "agreement" or any other title on a document that is denoting a contract.

**I. Amendment**

This Contract constitutes the entire agreement between the parties and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Contract are superseded by this Contract. No amendment to this Contract shall be binding unless in writing and signed by the parties.

**II. Bankruptcy**

Upon filing for any bankruptcy proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the Contractor must notify MWCOG immediately. Upon learning of the actions herein identified, MWCOG reserves the right at its sole discretion either to cancel the Contract or to affirm the Contract and hold the Contractor responsible for damages. The exercise of this right is in addition to any other rights MWCOG may have as provided in this agreement or by law.

**III. Compliance with Law**

The Contractor hereby represents and warrants that:

- A. It has the power and authority to enter into and perform the Contract, that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor, enforceable in accordance with its terms;
- B. Its performance under the Contract shall be in a good and workmanlike manner and in accordance with all applicable professional standards;
- C. It is qualified to do business in the jurisdictions covered by the Contract and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- D. It is not in arrears in the payment of any obligations due and owing to any agency involved in this agreement, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;

- E. It shall comply with all federal, state and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- F. It shall obtain, at its expense, all licenses, permits, insurance and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

#### **IV. Contingent Fee Prohibition**

The Contractor, architect or engineer (as applicable) warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, architect or engineer, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation or other entity, other than a bona fide employee or agent, any commission, percentage, brokerage or contingent fee or other consideration contingent on the making of this Contract.

#### **V. Counterparts**

This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument.

#### **VI. Force Majeure**

Neither MWCOG and/or its members nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, declaration of emergency, or war where such cause was beyond, respectively, MWCOG's and/or its members or Contractor's reasonable control. MWCOG and/or its members and Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

#### **VII. Governing Law**

This Contract shall be governed by and construed in accordance with the laws of the District of Columbia without regard to principles of conflicts of law.

#### **VIII. Indemnification**

The Contractor shall protect, hold free and harmless, defend and indemnify MWCOG and its members including their officers, agents and employees from all liability, penalties, costs, losses, damages, expenses, causes of action, claims or judgments (including attorney's fees) resulting from injury to, or death of, any person or damage to property of any kind, which injury, death or damage arises out of, or is in any way connected with the performance of the work or failure to perform its obligations under this Contract.

This obligation of indemnification shall apply to any acts or omissions, negligent conduct, whether active or passive, including acts or omissions of Contractor's agents or employees; except that it shall not be applicable to injury, death or damage to the property arising from the sole negligence of MWCOG and/or members, their officers, agents and employees.

#### **IX. Independent Contractor**

- A. Contractor shall perform the work required by this Contract as an "Independent Contractor." Although MWCOG and/or members reserves the right to determine the delivery schedule for the work to be performed and to evaluate the quality of the

completed performance, MWCOG and/or members cannot and will not control the means or manner of the Contractor's performance. The Contractor shall comply promptly with any requests by MWCOG and/or members relating to the emphasis or relative emphasis to be placed on various aspects of the work or to such other matters pertaining to the work under this Contract. Contractor is responsible for determining the appropriate means and manner of performing the work.

- B. Contractor represents and warrants that Contractor is not an employee of MWCOG and/or members, is not currently employed by the Federal Government, and is not an officer, employee or agent of MWCOG and/or members.
- C. Contractor shall be responsible for all federal or state taxes applicable to any compensation or payments paid to Contractor under this Contract. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers' compensation benefits from compensation or payments paid to Contractor under this Contract.
- D. Contractor agrees to immediately provide MWCOG and/or members notice of any claim made against Contractor by any third party. Contractor also agrees not to assign to any third party, without MWCOG's written consent, any obligation of MWCOG to indemnify Contractor for any actions under this Contract.

#### **X. Insurance Requirements**

- A. Contractor shall obtain, and at all times keep in effect, Commercial General Liability Insurance in the amounts listed below for its activities and operations. The insurance shall include coverage for personal injury, discrimination and civil rights violation claims. All such insurance shall name MWCOG, individual members, their employees, and agents as ADDITIONAL INSURED. A copy of the certificate of insurance shall be filed with MWCOG and/or members prior to the time any services are rendered. Contractor shall maintain coverage in the amount of \$1,000,000 per occurrence and \$2,000,000 general aggregate and \$500,000 for property damage. Coverage shall be written on an occurrence form.
- B. Contractor shall obtain, and at all times keep in effect, automobile insurance on all vehicles used in this Contract with MWCOG and/or members to protect Contractor against claims for damages resulting from bodily injury, including wrongful death, and property damage that may arise from the operations of any owned or hired automobiles used by Contractor in connection with the carrying out of this Contract. All such insurance shall name MWCOG and/or individual members, their employees, and agents as ADDITIONAL INSURED.
- C. Contractor shall, upon request, provide MWCOG and/or members with certification of Workers' Compensation Insurance, with employer's liability in the minimum amount required the governing jurisdiction's law in effect for each year of this Contract.
- D. All insurance policies shall have a minimum 30 days' notice of cancellation. Immediate written notice to MWCOG and members involved in the contract shall be required in the event of cancellation or restriction by the insurance company of any insurance policy referred to in this section.
- E. When insurance coverage is renewed, Contractor shall provide new certificates of insurance prior to expiration of current policies to all contracting agencies.

#### **XI. Nondiscrimination**

- A. A contractor who is the recipient of MWCOG and/or member funds, or who proposes to perform any work or furnish any goods under this Contract shall not discriminate against any worker, employee or applicant because of religion, race, sex, age, sexual orientation, physical or mental disability, or perceived disability.
- B. Contractor further agrees that this provision will be incorporated in all sub-contracts entered into in connection with this Contract.

## **XII. Ownership of Documents and Materials**

- A. The Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, maps, photographs, designs, graphics, mechanicals, artwork, and computations prepared by or for the Contractor under the terms of this Contract shall at any time during the performance of the services be made available to MWCOG and/or members upon request and shall become and remain the exclusive property of MWCOG and/or members upon termination or completion of the services. These jurisdictions shall have the right to use the same without restriction or limitation and without compensation to the Contractor other than that provided in this Contract. MWCOG and/or members shall be the owner for the purposes of copyright, patent or trademark registration.
- B. If the Contractor obtains or uses for purposes of this Contract, or subcontracts for, any design, device, material, or process covered by letters of patent for copyright, it shall provide an assignment to MWCOG and/or members of ownership for purposes of copyright, patent or trademark and of all right to possess and to use such design, device, material or process and a legally sufficient agreement with the patentee or owner, and a copy of such agreement shall be filed with MWCOG and/or members.
- C. The Contractor shall indemnify and save harmless MWCOG and/or members from any and all claims for infringement by reason of the use of any such patented design, device, materials, or process, or any trademark or copyright, and shall indemnify, protect and save harmless MWCOG and/or members, their officers, agents, and employees with respect to any claim. Action, costs or infringement, for royalties or user fees, arising out of purchase or use of materials, construction, supplies, equipment or services covered by this Contract.

## **XIII. Payments**

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

## **XIV. Records**

- A. Contractor shall maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor's performance hereunder.
- B. Contractor acknowledges and agrees that the MWCOG and/or members and their duly authorized representatives shall have access to such fiscal records and all other books, documents, papers, plans, and writings of the Contractor that are pertinent to this Contract. All such fiscal records, books, documents, papers, plans, and writing shall be retained by Contractor and kept accessible for a minimum of three (3) years, except as required longer by law, following final payment and termination of this Contract, or until

the conclusion of any audit, controversy, or litigation arising out of or related to this Contract, whichever date is later.

- C. All subcontracts shall also comply with these provisions.

## **XV. Remedies**

- A. Corrections of errors, defect and omissions. Contractor agrees to perform the work as may be necessary to correct errors, defects, and omissions in the services required under this Contract, without undue delays and without cost to MWCOCG and/or members. The acceptance of the work set forth herein by MWCOCG and/or members shall not relieve the Contractor of the responsibility of subsequent corrections of such errors.
- B. Set Off. MWCOCG and/or members may deduct from and set-off against any amounts due and payable to the Contractor any back-charges, penalties, or damages sustained by MWCOCG and/or members, their agents, employees of recipients of its services, by virtue of any breach of this Contract by the Contractor or by virtue of the failure or refusal of the Contractor to perform the services or any part of the services in a satisfactory manner. Nothing herein shall be construed to relieve the Contractor of liability for additional costs resulting from a failure to satisfactorily perform the services.
- C. Cumulative. All rights and remedies of MWCOCG/ members and Contractor shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of the MWCOCG and/or members by law.

## **XVI. Responsibility of Contractor**

- A. The Contractor shall perform the services with the standard of care, skill, and diligence normally provided by a Contractor in the performance of services similar the services hereunder.
- B. Notwithstanding any review, approval, acceptance or payment for the services by MWCOCG, the Contractor shall be responsible for the professional and technical accuracy of its work, design, drawings, specifications and other materials furnished by the Contractor under this Contract.
- C. If the Contractor fails to perform the services, or any part of the services, in conformance with the standard set forth in subparagraph A above, it shall, if required by MWCOCG and/or members, perform at its own expense and without additional cost to MWCOCG and/or members, those services necessary for the correction of any deficiencies or damages resulting, in whole or in part, from the Contractor's failure. This obligation is in addition to and not in substitution for any other remedy available to MWCOCG and/or members under the "Remedies" paragraph, or otherwise available by law.

## **XVII. Severability/Waiver**

- A. MWCOCG and/or members and Contractor agree that, if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

- B. The failure of either party to enforce any provision of this Contract shall not constitute a waiver by that party of that or any other provision of this Contract.

**XVIII. Subcontracting or Assignment**

The benefits and obligations hereunder shall inure to and be binding upon the parties hereto and neither this Contract nor the services to be performed hereunder shall be subcontracted, or assigned or otherwise disposed of, either in whole or in part, except with the prior written consent of MWCOG and/or members. MWCOG and/or members have the right to withhold such consent for any reason MWCOG and/or members deem appropriate.

**XIX. Survival**

The terms, conditions, representations, and all warranties contained in this Contract shall survive the termination or expiration of this Contract.

**XX. Termination**

- A. If the Contractor fails to fulfill its obligations under the Contract properly and on time, or otherwise violates any provision of the Contract, MWCOG and/or members may terminate the Contract by written notice to the Contractor.
- B. The notice shall specify the acts or omissions relied upon as cause for termination.
- C. All finished or unfinished work provided by the Contractor shall, at MWCOG's and/or members option, become MWCOG's and/or member's property. MWCOG and/or members shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and MWCOG and/or members can affirmatively collect damages.

**XXI. Termination of Contract for Convenience**

- A. The performance of work under this Contract may be terminated by MWCOG and/or members, in whole or in part, upon written notice to the Contractor, when MWCOG and/or members determines such termination is in the best interest of MWCOG and/or members. The termination for convenience is effective on the date specified in MWCOG's and/or members written notice.
- B. MWCOG and/or members will pay for all reasonable costs allocable to the Contract for work or costs incurred by the Contractor up to the date of termination. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

**XXII. Termination of Multi-Year Contract**

- A. If MWCOG and/or members fail to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either MWCOG's and/or members rights or the Contractor's rights under any termination clause in this Contract.

- B. The effect of termination of the Contract hereunder will be to discharge both the Contractor and MWCOG and/or members from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract. MWCOG and/or members shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

**XXIII. Time is of the essence**

Time is of the essence in Contractor's performance of each and every obligation and duty under this Contract.

**XXIV. Whole Contract**

This Contract constitutes the complete and exclusive statement of the Contract between the parties relevant to the purpose described herein and supersedes all prior agreements or proposals, oral or written, and all other communication between the parties relating to the subject matter of this Contract.

*(Revised 8/22/2017)*

**ATTACHMENT C  
PROPOSERS EXPERIENCE/REFERENCES**

Name of Proposer \_\_\_\_\_

REFERENCES are to be provided from three (3) other clients who are being or have been provided by the Proposer similar products, services and scope of work.

Complete contact information for each reference, including name, telephone number, mailing address and E-mail address, must be included with the Proposal.

A Proposer which, in the sole judgment of COG, lacks sufficient specific experience may be deemed non-responsible, and may not be considered for award of subsequent contract(s).

1) Firm Name \_\_\_\_\_

Contact Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_ Email Address \_\_\_\_\_

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2) Firm Name \_\_\_\_\_

Contact Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_ Email Address \_\_\_\_\_

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3) Firm Name \_\_\_\_\_

Contact Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_ Email Address \_\_\_\_\_