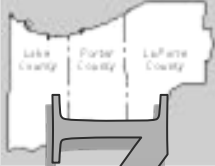


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# Northwestern Indiana Regional Planning Commission



**NIRPC**

## REQUEST FOR PROPOSALS

**(RFP 14-05)**

### Accounting Software

Version: Final 8/04/14

Requests for alternate formats available upon request. TTY users may also dial Relay Indiana at 711.

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## **2. NOTICE OF REQUEST FOR PROPOSALS**

### **2.1. Description**

The Northwestern Indiana Regional Planning Commission (Commission), is seeking Proposals for Governmental Financial Accounting Software, including implementation and support services. The accounting software should allow for fund-based, governmental accounting. Requirements are outlined in the Scope of Work section of this Request for Proposals.

### **2.2. Method of Procurement**

The method of procurement will be Competitive Negotiation.

### **2.3. Solicitation Schedule**

Release Date:	August 4 <sup>th</sup> , 2014
Deadline for Inquiries:	August 18 <sup>th</sup> , 2014
Deadline for Submittals:	September 3 <sup>rd</sup> , 2014
Demonstration Dates:	September 8 <sup>th</sup> , 2014
Selection of Vendor:	September 18 <sup>th</sup> , 2014

### **2.4. Contact**

Kathleen Honl, Accounting and Procurement Coordinator  
Northwestern Indiana Regional Planning Commission  
6100 Southport Road  
Portage IN 46368  
P: 219-763-6060 ext. 161  
F: 219-762-1653  
[khonl@nirpc.org](mailto:khonl@nirpc.org)

### **3. INSTRUCTION TO PROPOSERS**

#### **3.1. Deadline**

All Proposal(s) must be received at the Commission by **September 3<sup>rd</sup>, 2014 12:00 p.m. Central Standard time.** No Proposal(s) will be accepted after this time and date. The Commission reserves the right to reject any or all Proposal(s) received for any reason.

#### **3.2. Evaluation and Vendor Selection**

##### **3.2.1. Proposal Evaluation**

Proposal(s) will be subject to an initial review by the Accounting and Procurement Coordinator. Interested Proposers shall be deemed responsive if they conform to the essential requirements of this solicitation which includes the specifications, terms, and conditions to be met.

All submitted Proposal(s) will then be reviewed by the Commission and a short list of Proposal(s) scoring highest on the criteria (through application of the evaluation criteria) will be developed. Where there are apparent deficiencies, ambiguities and uncertainties present in the Proposal(s), the Commission may engage in discussions, in the manner most appropriate (either via writing or verbally), with interested Proposers for the sole purpose of addressing these deficiencies, ambiguities, and uncertainties.

Proposers who are on the short list may be asked to make an on-site demonstration of their accounting software at Northwestern Indiana Regional Planning Commission, 6100 Southport Road, Portage, Indiana 46368. The date for demonstration of the software is September 8<sup>th</sup>, 2014. Final selection of the successful Proposer, in this case, will be made after software demonstrations are performed by each Proposer on the short list.

Notwithstanding the above, the Commission reserves the right to select one Proposer based on the original submission of the Proposal(s), without negotiations with any Proposers or without software demonstrations.

##### **3.2.2. Evaluation Criteria**

The contract for this engagement shall be awarded to the Proposer that exhibits excellent price competitiveness and qualifications. The Commission expects the Proposer to provide cost-effective, knowledgeable, and service oriented in carrying out the Scope of Work.

The following criteria will be used in evaluating responsive Proposal(s) submitted in response to this solicitation. The relative importance is shown in ascending order:

		<b>Score</b>	<b>Of Total</b>
	<b>Existing Qualifications</b>		
1	<i>Ability of the vendor to meet the requirements in the Scope of Work</i>		30
2	<i>Quality of software and implementation services</i>		15
3	<i>Proposal Cost</i>		15
4	<i>Ability to provide customer service and support</i>		10
5	<i>Adequate and knowledgeable training for end-user</i>		10
6	<i>Demonstrated performance of proposed system within other government agencies</i>		5

7	<i>Ability to incorporate other modules into the accounting system in the future</i>		5
8	<i>Clear and responsible implementation plan and calendar</i>		5
9	<i>Disadvantaged Business Enterprise</i>		5
			<b>100</b>

### 3.3. Inquiries

Any question related to this solicitation shall be directed to the contact whose name appears in Section 2.4. The Proposer shall not contact or ask questions of the department or agency for which the requirement is being procured. Questions shall be submitted in writing or by e-mail. Any correspondence related to a solicitation should refer to the appropriate solicitation number, page and paragraph number. Oral interpretations or clarifications will be without legal effect. Only questions answered by formal written solicitation amendment will be binding. All questions and answers will be shared with the mail/e-mail list.

It is the Proposer's responsibility to contact whose name appears in Section 2.4 and get added to the mail/e-mail list. If the Proposer is not on that mail/e-mail list, they will not be sent any addendums, questions, answered, and etc. This can be done by submitting an email to the Accounting and Procurement Coordinator with the subject line: RFP 14-05 – Add Vendor to List.

#### **IF YOU WANT ADDENDUMS, QUESTIONS, ANSWERS TO QUESTIONS, AND/OR ETC, FOLLOW THESE INSTRUCTIONS!**

All questions and clarification are due by 12:00 p.m. (noon) local time on August 18<sup>th</sup>, 2014 with subject line: RFP 14-05 Accounting Software.

### 3.4. Instructions for Submittal

Proposers must include the following information in the order outlined below in their submission of Proposal(s). If there are items that are not covered below use your own discretion and add those items on a separate page. The Proposal(s) must include and are to be evaluated on the basis of:

1. Name of Proposer;
2. Full address of Proposer's principal office;
3. Proposer's telephone number;
4. Name(s) telephone number(s) fax number(s) and addresses if different from above, of primary contact(s) in the Proposer's organization with responsibility for responding to this solicitation and to whom matters regarding this solicitation should be directed;
5. Detailed description of resources committed to this project. Provide resume and detailed information regarding the experience of the software professional to be assigned to this project. Also describe all other staff resources that may be assigned to this effort.
6. References. Provide complete contact information for at least five prior public agency clients that the vendor has worked with on similar projects within the past three years. Provide a comprehensive list of public sector clients.
7. Narrative description of qualifications detailing extensive understanding of the needs of a governmental agency and applicable accounting software.
8. Completed form for Non-Collusion;
9. Completed form for Government-Wide Debarment and Suspension;
10. Completed form for Certification Regarding Lobbying

11. Completed DBE certification
12. Other miscellaneous attachments.

Ten (10) copies of the Proposal(s) need to be submitted for review and a compact-disc (CD) (Only one compact-disc (CD) is required) (thumb drives are acceptable alternatives) of a copy of the entire Proposal(s) in sealed envelopes marked on the outside as follows:

RFP 14-05 Accounting Software

Bids received and opened may not be withdrawn for a period of sixty (60) days from the opening of bids.

Failure to comply with any of these general submittal requirements, other requirements set forth within this document, or meet the technical specifications as provided herein will be considered non responsive and will be sufficient reason for the partnership to refuse to consider the proposal.

### **3.5. Exclusionary of Discriminatory Specifications**

Apart from inconsistent requirements imposed by Federal Statute or regulations, the Commission agrees to comply with the requirements of 49 U.S.C § 5323(h)(2) by refraining from using any federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

### **3.6. Pricing**

The price to be quoted in any proposal submitted shall include all items of labor, materials, tools, equipment, delivery and other costs necessary to fully complete the scope of the work specified in this solicitation. Any additions, deletions or variations from the specifications must be noted when the proposal is submitted. If a proposer does not specifically identify a deviation from the specifications, it will be assumed that all requirements are either met or exceeded. The proposer guarantees that the proposal submitted is not a product of collusion with any other individual or group of individuals, and further guarantees that no effort has been made to fix the proposal price of any proposer or to fix any overhead, profit or cost element of any proposal.

### **3.7. Single Proposal Response**

If only one responsive proposal is received in response to the solicitation request, the Commission shall conduct a cost analysis in order to facilitate a determination of the fairness and reasonableness of the proposal price. The single proposer shall be requested to submit cost information.

## **4. GENERAL CONDITIONS**

### **4.1. Proposer Responsibility**

The Proposer shall have the responsibility of satisfying all parts of this solicitation. It is the desire of the Commission to procure goods and services of the finest quality. No advantage shall be taken by the Proposer in the omission of any part of detail that would be necessary to fully satisfy all work required in this solicitation.

### **4.2. Proposer Costs**

Those submitting proposals do so entirely at their own expense. There is no expressed or implied obligation by the Commission to reimburse any individual or firm for any costs incurred in preparing or submitting proposals, providing additional information when requested by the Commission, or for participating in any selection interviews.

### **4.3. Definitions**

**Proposal(s):** Proposal(s) may refer to a quote, proposal, or set of qualifications that is to be submitted by the Proposer.

**Proposer:** Proposer shall refer to a firm, agent, company, or person submitting a Proposal(s) to the Commission.

**Contract:** Refers to an agreement between the Proposer and the Commission in which a set of terms and conditions and a scope of work are agreed upon after evaluations have determined a competitive Proposer.

**The Commission:** The Commission refers to the Northwestern Indiana Regional Planning Commission.

**Solicitation:** Refers to this document.

### **4.4. Disadvantaged Business Enterprises**

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, and Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

**The Commission's current DBE goal requires that all vendors make a good faith effort to meet the goal of at least 7.13% participation.**

### **4.5. Eligibility**

Proposers must not be on the U.S. Comptroller General's list of ineligible firms. The successful Proposer will be required to comply with all applicable Equal Employment Opportunity laws and regulations.

#### **4.6. Code of Ethics**

No employee, officer, agent, family member, or Board member of the Commission shall participate in the selection, award, or administration of a contract supported by FTA funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following has financial or other interest in the firm selected for award:

1. the employee, officer, agent, or Board member
2. any member of his immediate family
3. his partner, or
4. an organization that employs, or is about to employ, any of the above.

The Commission's officers, employees, agents, or Board members will neither solicit, nor accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

#### **4.7. Insurance Requirements**

The successful Proposer covenants and agrees to maintain and keep in force during the term of the contract insurance in the following minimum amounts:

<u>Type of Insurance</u>	<u>Limits</u>
Worker's Compensation	Statutory
Commercial General Liability	\$1,000,000/\$1,000,000 CSL
Professional Liability	\$1,000,000

On all liability policies of insurance contractor shall have the Commission named as an additional insured and shall further require that their liability carrier(s) notify the Commission at least thirty (30) days prior to the effective date of any change(s) in or cancellations of said insurance policies. A current copy of Proposer's insurance certificate providing proof of insurance as stated above must be on file in the Procurement Office prior to the award. Submission of an evidence of insurability from your provider or an insurance certificate copy may be included with the submittal.

#### **4.8. Familiarization of Scope of Work**

Before signing a contract, each Proposer shall familiarize itself with the Scope of Work, laws, regulations, and other factors affecting performance of work. It shall carefully correlate its observations with requirements of the solicitation and contract and otherwise satisfy itself as to the expense and difficulties attending the performance of the work. The signing of a contract will constitute a representation of compliance by the Proposer. There will be no subsequent financial adjustment, other than that provided by the contract, for lack of such familiarization.

#### **4.9. Protest Procedures**

Proposal protests based upon restrictive specifications or alleged improprieties in a solicitation that are apparent prior to Proposal opening must be received by the Commission, in writing, three (3) working days prior to the deadline date for submission of Proposals.

Protest of a decision concerning a contract award made by the Commission must be received by the Contracting Officer in writing within five (5) working days after the date of the contract award.



A protest shall include the name and address of the protestor, the Proposal/proposal number, the grounds for the protest, and any supporting documentation. The Commission shall notify the protestor, in writing and in a timely manner, of its receipt of the protest.

If the protest is received prior to the Proposal opening, all interested parties may be notified and the opening of Proposals may be postponed. If the protest is received after a contract award, the award may be withheld until a local decision is rendered concerning the protest.

The Contracting Officer will review the protest with any supporting documents submitted. The Contracting Officer shall perform an investigation of the protest. The Contracting Officer then presents the results of the investigation to the Finance and Personnel Committee of the Commission Board. The Finance and Personnel Committee will review the results and provide a recommendation to the Board. The Board shall make a decision regarding the protest and notify the Contracting Officer of the result. The Contracting Officer shall notify all affected parties of such decision in writing.

#### **4.10. Responsive Proposal(s)**

The Commission shall award contracts only to responsible/responsive Proposers who possess the potential to perform successfully under the terms and conditions of the solicitation. The Proposer shall affirmatively demonstrate its responsibility and, when necessary, the responsibility of any proposed Sub-Contractors.

If information obtained by the Commission clearly indicates that the Proposer is not responsive and the Commission has doubts about the productive capability or financial strength of a Proposer that cannot be resolved affirmatively, a determination that the Proposer is non-responsive shall be rendered.

#### **4.11. Right of Rejection**

The Commission reserves the right to postpone the closing/opening date for its own convenience and to reject any or all Proposal(s) for any reason.

## **5. SCOPE OF WORK**

### **5.1. Background**

The Commission is a multi-purpose, area-wide planning agency representing local governments within Lake, Porter, and La Porte counties in Indiana. It is governed by a board of fifty-three Commissioners, all being elected officials. The 1,520 square mile planning area has a population of 771,815 according to the 2010 decennial census.

The Commission is a unit of government and besides being the regional council of local governments, it is the designated Metropolitan Planning Organization for transportation planning and programming in Northwest Indiana. For information please visit the Commission's website at [www.nirpc.org](http://www.nirpc.org)

### **5.2. Description of Current System**

Currently, the Commission uses Fundware software for budgeting, accounts payable, accounts receivable, and general ledger processing. The Commission utilizes ETS Payroll for the payroll system which integrates with the Fundware system. Fundware and ETS run on a Dell PowerEdge T610 server running Windows 2008 Server Standard 32 Bit with Service Pack 2 and an Intel Xeon 2.27 GHz Processor with 4 GB of RAM, 1 GB NIC card, and four (4) 136 GB SAS hard drives with RAID 5 configuration (approximately 400 GB useable storage).

Vendor has the option to replace or upgrade the server if necessary for compatibility.

### **5.3. Implementation**

The Commission is seeking a governmental, accrual-based, financial accounting system that includes fund accounting, payroll, and the capability for the addition of Capital Asset Management in the future. The accounting system will have a minimum of five (5) users.

The vendor will be responsible for implementing the proposed system including:

- Hosting – local server or cloud-based
- Conversion – Providing a conversion plan with clear and concise timelines including an outline of the conversion process, expectation, and staffing requirements
- Training – Including an end-user training plan with material to be covered and timelines
- Support – Describing support methods during and after the conversion, including annual support

### **5.4. System Specifications**

The following requirements must be met by the accounting software package:

1. General Ledger and Budget
  - Compatible and generally accepted accounting principles for governmental accounting
  - Multiple funds accounting with the ability to manipulate and create accounts
  - Multi-year tracking

- Comprehensive audit trail (vendor, check number, invoice, PO, etc...)
  - Multiple budgets per year (original and adjusted)
  - Maintain budget history for prior years
2. Financial Reporting
    - Ability to export data to Excel
    - End-user customizable reporting package
  3. Payroll
    - Direct deposit (ACH) capabilities
    - Integrated with general ledger and budget modules
    - Timesheet software compatible with the accounting software
    - Track accrued time earned and used
    - Allow multiple salary distribution between funds and accounts
    - Ability to do more than one payroll check run per pay period with identical date.
    - Generate standard Payroll, Federal, and State reports (W-2, SUTA, 941 required)
  4. Accounts Receivable
    - Cash receipt subsidiary ledger with tracking by customer
    - Generate recurring billing
    - Generate miscellaneous billing
    - Generate credit memos/void invoices
    - Generate standard Accounts Receivable reports
  5. Accounts Payable
    - Purchase Order tracking
    - Process vendor payments by check or electronic payment
    - Multiple invoices per single payment
    - Tracking of partial payments
    - Lookup feature for posting details
    - 1099 tracking, reporting, and printing or electronic submission
    - Generate standard Accounts Payable reports
  6. Reconciliation of Multiple Bank Accounts (Optional)
  7. Security
    - Administrator management ability to assign specific rights within the system for internal control purposes.
    - Ability to lock periods
    - Creation of internal checks & balances
  8. Other Items
    - Ability to design and produce flexible forms and custom reports
    - Integration with Microsoft Office Suite

## **5.5. Post-Implementation**

The vendor will be responsible for providing on-going post-implementation support, including:

- Telephone, online, and/or on-site technical support as needed
- Installation of service packs, version upgrades, and database upgrades

## **5.6. Cost Information**

Please review the specific software applications described in System Requirements. The cost shall include all anticipated costs, including services, licenses, and maintenance. The cost proposal must be summarized on the attached Cost Summary sheet (Exhibit 7.9) and included with your proposal. Use additional pages as needed to provide additional cost detail.

The following costs must be included in your response:

1. Identify costs, as applicable, for each application proposed for:
  - Application software cost or license fees
  - Cost to convert existing data to new application
  - Implementation, training and support service costs
  - Annual software maintenance cost
  - Any annual fee to maintain license
  - Other costs – Include in summary column and explain in detail.

## **5.7. Other Information**

Include a description of any products, features or other value-added components available for use with the proposed software application(s) that have not been specifically requested in this RFP. Consideration of these products, features, or other value-added components will be given where these may be of value to the Commission.

## **6. GENERAL TERMS AND CONDITIONS ASSOCIATED WITH FTA CONTRACTS**

The following general terms and conditions will govern the basic Agreement and are a part thereof.

### **1. FINANCIAL ASSISTANCE:**

The work provided for in this Contract (Agreement) is financed, in part, through financial assistance received from the Federal Transit Administration (FTA) of the U.S. Department of Transportation under the authority provided by the Surface Transportation Act of 1982, as amended, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the Transportation Efficiency Act for the 21st Century (TEA-21), and Safe, Accountable, Flexible, and Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU). As such it is subject to a grant agreement between FTA and the Commission, which will be furnished to Contractor upon request. The Contractor is required to comply with all terms and conditions prescribed for third party contracts in the grant agreement between FTA and the Northwestern Indiana Regional Planning Commission.

### **2. CONTRACTS AMENDMENTS:**

Any proposed change in this Agreement shall be submitted to the Commission for its prior approval, and when approved Commission will make the change by a written contract modification. The Commission may at any time by written order, and without notice to the sureties, make changes, within the general scope of this contract in one or more of the following: (1) drawings, designs, or specifications; (2) methods of shipment or packing; and (3) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price or delivery schedule, or both; and the contract shall be modified in writing accordingly. The Contractor must request an adjustment under this clause within 15 days from the date of receipt of the notification change. The Lead Agency may decide to act upon the Contractor's request for adjustment at any time prior to final payment under the contract, provided the facts warrant such action.

**Change Order Procedures:** Within 15 days after receipt of the written change order to modify the contract, the Contractor shall submit to the Contracting Officer a detailed price and schedule proposal for the work to be performed. This proposal shall be accepted or modified by negotiations between the Proposer and Contracting Officer. At that time, both parties shall execute a detailed contract modification in writing. All changes in the contract that either increase or decrease the cost of, or the time required for the performance of any part of the work under this contract, thereby affecting the contract price or delivery schedule, shall be resolved by mutual agreement between the Proposer and the Commission. Disagreements that cannot be resolved through negotiations shall be resolved in accordance with the contract disputes provisions of FTA Guidelines. Regardless of any disputes, the Contractor shall proceed with the work ordered, provided the Commission has obtained the prior concurrence of FTA.

Notice of the acceptance of the change order will be made by the issuance of a NIRPC change order form to the Contractor. The Contractor will be required to evidence its

acceptance of the change order by endorsing and returning to Commission the change order form within 10 days of its receipt thereof. The acceptance of the change order will bind the Contractor on his part to finish and deliver at his adjusted proposal price in accordance with conditions of said accepted proposal and specifications. The contractor shall be liable for all costs resulting from, and/or for satisfactorily correcting, and specification or other change not properly ordered by written modification to the contract.

**Price Adjustment for Regulatory Changes:** If a price adjustment is indicated, either upward or downward, it shall be negotiated between Commission and the Contractor for changes that are mandatory as a result of legislation or regulations that are promulgated and become effective between the date of proposal acceptance and the date of manufacture. Such price adjustment may be audited, where required.

### 3. **CONTRACT TERMINATION PROVISIONS:**

The following provisions have been developed by Commission in accordance with 49 CFR Part 18 and FTA Circular 4220.1F

**Termination for Convenience:** The Commission may terminate this contract in whole or in part, for the Commission's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Commission shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Commission, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

**Termination for Default:** If the Contractor does not deliver the goods or services provided by this solicitation in accordance with the provisions contained herein, or if the Contractor fails to perform in the manner called for with regard to other provisions of a contract awarded in conjunction with this solicitation, the Commission may notify the Contractor of its intention to terminate this contract for default. The Proposer shall be allowed fifteen (15) calendar days after receipt of the notice of intent to terminate for default in which to rectify the problems that were cause for such notice. Termination shall be effected by serving a final notice of termination on the Contractor setting forth the manner in which the Contractor may be paid for only items delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the Commission that the Contractor had an excusable reason for not performing, such as a strike, fire, flood, or other events which are not the fault of, or are beyond the control of the Proposer, the Commission after setting up a new delivery or performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

**Opportunity to Cure:** The Commission in its sole discretion may, in the case of a

termination for breach or default, allow the Contractor 30 days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

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

#### 4. **BREACHES AND DISPUTE RESOLUTION:**

The following provisions have been developed by the Commission in accordance with 49 CFR Part 18 and FTA Circular 4220.1F

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

**Performance during Dispute:** Unless otherwise directed by the Commission, the Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

**Remedies:** Unless this Agreement provides otherwise, all claims, counterclaims, disputes and other matters in question between the Commission and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Indiana.

**Rights and Remedies:** The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Commission or the Contractor shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

#### 5. **ACCESS TO RECORDS AND REPORTS:**

The following access to records requirements apply to this Agreement:

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 CFR 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. The Contractor also agrees, pursuant to 49 CFR 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction 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.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Commission, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i) (11).

**6. FEDERAL CHANGES:**

Pursuant to 49 CFR Part 18, 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 Agreement (Form FTA MA (6) dated October, 1999) between the Northwestern Indiana Regional Planning Commission and FTA, as they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to so comply shall constitute a material breach of this contract.

**7. NO GOVERNMENT OBLIGATION TO THIRD PARTIES:**

The Commission and Contractor acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the federal government, the federal government is not a party to this contract and shall not be subject to any obligations or liabilities to the Commission, the Contractor, or any other party (whether or not a party to this Agreement) pertaining to any matter resulting from the Agreement. 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.

**8. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS:**

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may



make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**9. CIVIL RIGHTS REQUIREMENTS:**

**Civil Rights** - Pursuant to 29 U.S.C. § 623, 42 U.S.C. § 2000; 42 U.S.C. § 6102, 42 U.S.C. § 12112; 42 U.S.C. § 12132, 49 U.S.C. § 5332; 29 CFR Part 1630, 41 CFR Parts 60 et seq.; the following requirements apply to the underlying contract:

**Nondiscrimination:** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

**Race, Color, Creed, National Origin, Sex:** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**Age:** In accordance with section 4 of the Age Discrimination in Employment Act of

1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**Disabilities:** In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

**10. DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS:**

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

The (prime) contractor shall not terminate a DBE subcontractor for convenience and then perform that work with its own forces or its affiliate.

Prime contractors must make payment to subcontractors for satisfactory performance of their contracts no later than 30 days from the receipt of each payment made by the Commission to the prime contractor.

If retainage is withheld by from the subcontractor, prompt and full payment must be made by the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Commission. When the Commission has made an incremental acceptance of a portion of a prime contract or a progress payment, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

Any delay or postponement of payment to subcontractors may only take place for good cause. Any such delay or postponement requires the prior written approval of the Commission.

If any of these conditions are not met, the Commission reserves the right to withhold payment until the Commission is satisfied that these conditions are met.

The contractor agrees to place this clause in all subcontracts.

**11. ENERGY CONSERVATION REQUIREMENTS:**

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. These requirements are set forth in 42 U.S.C 6321 et. seq. and 49 CFR Part 18.

**12. FLY AMERICA REQUIREMENTS:**

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 provides that recipients and sub-recipients 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 that such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. 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. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

**13. INTELLIGENT TRANSPORTATIONS SYSTEM REQUIREMENTS:**

The Contractor agrees that in the course of implementing any project involving any aspects of an intelligent transportation system it will be compliant with Section VII of the FTA Notice “FTA National ITS Architecture Policy on Transit Projects” at 66 Fed. Reg. 1459, January 8, 2001.

**14. STATE AND LOCAL LAW DISCLAIMER:**

State and Local Law Disclaimer – The Contractor hereby agrees to comply with all applicable statutes, ordinances, and regulations of the United States, the U.S. Department of Transportation, the State of Indiana and local governments.

**15. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS:**

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (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, and 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 Commission requests which would cause the Commission to be in violation of the FTA terms and conditions.

**16. SUSPENSION AND DEBARMENT PROVISIONS:**

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to Executive Order 12549, as implemented by 49 CFR Part 29, regarding government-wide debarment and suspension of contractors. The Contractor agrees to sign required certifications. The Contractor agrees to pass this requirement on to sub-contractors seeking subcontracts over \$25,000.

By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, (Recipient) may pursue available remedies, including suspension and/or debarment.
2. The prospective lower tier participant shall provide immediate written notice to (Recipient) if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
3. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact (Recipient) for assistance in obtaining a copy of those regulations.
4. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by (Recipient).
5. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List issued by U.S. General Service Administration.
7. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered

transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, (Recipient) may pursue available remedies including suspension and/or debarment.

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

1. The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**17. LOBBYING:**

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.

**18. CLEAN WATER REQUIREMENTS:**

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 Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

**19. CLEAN AIR REQUIREMENTS:**

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 Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

**20. RECOVERED MATERIALS:**

The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA) as amended (42 U.S.C. 6962), including, but not limited to, the regulatory provisions of 40 CFR Part 247 and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

## 7. EXHIBITS

## 7.1. NON-COLLUSION AFFIDAVIT

### NON-COLLUSION AFFIDAVIT

The undersigned Proposer, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person from Proposing not to induce anyone to refrain from Proposing, and that this Proposal is made without reference to any other Proposal and without any agreement, understanding or combination with any other person in reference to such Proposing. He further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale.

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Proposer

---

Signature of Proposer



## **7.2. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT):**

49 CFR Part 29 - Executive Order 12549

### **Instructions for Certification**

1. **By signing and submitting this Proposal or proposal, the prospective lower tier participant is providing the signed certification set out below.**

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, NIRPC may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to NIRPC if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact NIRPC for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by NIRPC.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List issued by U.S. General Service Administration.

8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, NIRPC may pursue available remedies including suspension and/or debarment.

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

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

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

\_\_\_\_\_ Signature of Proposer's Authorized Official

\_\_\_\_\_ Name and Title of Proposer's Authorized Official

\_\_\_\_\_ Date

### 7.3. CERTIFICATION REGARDING LOBBYING

#### 49 CFR Part 20 - Appendix A Certification For Contracts, Grants, Loans, And Cooperative Agreements

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

\_\_\_\_\_

**Signature of Contractor's Authorized Official**

\_\_\_\_\_

**Name and Title of Contractor's Authorized Official**

\_\_\_\_\_

**Date**

## 7.4. DBE PROGRAM COMPLIANCE

### 49 CFR PART 26

The following Proposal conditions apply to this United States Department of Transportation assisted contract. Submission of a proposal by a prospective Contractor shall constitute full acceptance of these Proposal conditions.

#### REQUIRED CONTRACT CLAUSES (49 CFR 26.13) UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES

Northwestern Indiana Regional Planning Commission will ensure that the following clauses are included in each DOT assisted contract and subcontract:

- I) Policy - It is the policy of the Northwestern Indiana Regional Planning Commission that Disadvantaged Business Enterprises shall have the maximum practicable opportunity to participate in the performance of contracts. Consequently, the DBE requirements of 49 CFR Part 26, do apply to this agreement. Proposers shall use sufficient and reasonably good faith efforts to carry out this policy in the award of their subcontracts to the fullest extent, consistent with the efficient performance of this contract.
- II) DBE Obligation - The contractor agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, Subpart D, have the maximum opportunity to participate in the performance of contracts and subcontracts. In this regard, all contractors shall take necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin or sex.
- III) Contract Goal - If the contractor is not a DBE, then the Proposer/proposer agrees that the DBE goal for this Contract will be met by subcontracts or by joint ventures with DBE's. The goal set forth for this Contract is 7.13% of the final Contract price, including amendments and modifications. The amount of DBE participation will be determined by the dollar value of the work performed and/or supplies furnished by DBE firms as compared to the total value of all work performed and/or supplies furnished under this Contract. The contractor shall have met this goal if the contractor's DBE participation meets or exceeds this goal.

In cases where work is added to the contract by modification such that additional DBE participation is necessary to meet this goal, the Contractor shall increase the participation of one or more firms listed on the —Schedule of DBE Participation‖ or submit additional DBE firms to meet the goal. In cases where work is deleted from the Contract, the goal shall be applicable to the new Contract amount. The Contractor shall be permitted to meet the goal by revising its DBE participation, provided, however, that the revision shall not result in DBE participation that is less than the original goal.

- IV) Compliance - All Proposers, potential contractors, or sub-contractors for this contract are hereby notified that failure to carry out the policy and the DBE obligation, as set forth above, shall constitute a breach of contract which may result in non-selection; termination of the contract; or such other remedy as deemed appropriate by Northwestern Indiana Regional Planning Commission. Agreements between a Proposer/proposer and a DBE, in which the DBE promises not to provide sub-contracting quotations to other PROPOSERS/PROPOSERS, are prohibited.
- V) Sub-contract Clauses - All Proposers and potential contractors hereby assure that they will include the above clauses in all sub-contracts which offer further sub-contracting opportunities.

VI) Acceptable Good Faith Efforts - "Good faith efforts" means efforts to achieve a DBE goal or other requirements of the Northwestern Indiana Regional Planning Commission's DBE Program Plan which by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the goal program requirement. If any Proposer fails to meet the DBE goals for this solicitation, the Proposer shall submit, with the Proposal, proof of good faith efforts, using the guideline listed in Appendix A of 49 CFR 26, along with a written statement of efforts made and reasons for not meeting said goals.

#### **7.4.1. General Instructions**

##### **IMPORTANT! READ CAREFULLY!**

All Proposers/contractors shall complete and submit, with their Proposals, DBE Forms 1, 2, and 3.

Each subcontractor listed on DBE Form 1 shall complete and sign DBE Form 2 and DBE Form 3 as a DBE Subcontractor.

Business Contractors seeking to participate as DBEs must be certified at the time of Proposal submittal. Northwestern Indiana Regional Planning Commission does not certify DBEs. Please check with your state's DBE office.

Proposers who fail to achieve the contract goal(s) stated in the Proposal document must provide (with the Proposal) an explanation as to why the goal was not achieved and documentation demonstrating that a "Good Faith Effort" was made by the Proposer as outlined in DBE Form 4.

Contractors may duplicate as many forms as needed. All DBE Program questions should be directed to the Northwestern Indiana Regional Planning Commission, the DBE Officer, Allen Hammond, 6100 Southport Road, Portage, Indiana 46368, 219-763-6060 x141.

***DBE Forms 1, 2, and 3 must be submitted with the Proposal in order to be eligible to receive a contract award. If there are sub-contractors listed, the sub-contractor must fill out DBE Form 3.***

***The Proposer must provide documentation and explanation as to why the DBE goal as was not achieved by filling out DBE Form 4.***

**7.5. DBE FORM 1 - SCHEDULE OF DBE PARTICIPATION**

**SCHEDULE OF DBE PARTICIPATION**

**Name of Proposer:** \_\_\_\_\_

**Project:** Accounting Software

**Project No.:** \_\_\_\_\_

**Proposal No:** 14-05

**Total Proposal Amount:** \_\_\_\_\_

NAME OF DBE SUBCONTRACTOR	ADDRESS (COUNTY, STATE)	TYPE OF WORK SUBCONTRACTED	DBE	SUBCONTRACT VALUE
				\$
				\$
				\$
				\$
				\$
				\$
				\$

DBE PARTICIPATION TOTAL VALUE \_\_\_\_\_ \$

The attainment of DBE participation goals for this contract will be measured as a percentage of the total dollar value of the contract.

**The undersigned will enter into a formal agreement with the DBE Subcontractors identified herein for work listed in this schedule conditioned upon execution of a contract with**

\_\_\_\_\_

**7.6. DBE FORM 2 - DBE SUBCONTRACTOR IDENTIFICATION**

DBE SUBCONTRACTOR IDENTIFICATION

(Reproduce as necessary)

I HEREBY DECLARE AND AFFIRM THAT I AM THE \_\_\_\_\_

(Title - Owner, President, etc.) and duly authorized representative of

\_\_\_\_\_ (Name of Firm) and I hereby declare and

affirm that I am a certified DBE.

\_\_\_\_\_  
(signed)

\_\_\_\_\_  
(printed)

This firm has current DBE certification from the following agencies and/or state(s):

\_\_\_\_\_  
\_\_\_\_\_

A copy of the current certification letter notifying the firm that it has been DBE certified must be attached to this form.

**7.7. DBE FORM 3 - LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR**

LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR

TO: \_\_\_\_\_  
(Name of General Contractor Proposing)

PROJECT: Accounting Software

*The undersigned intends to perform work in connection with the above project.*

The status of the undersigned is confirmed on the attached DBE Contractor Identification (DBE FORM 2).

The undersigned is prepared to perform the following described work in connection with the above project:

\_\_\_\_\_  
(Specify in detail, work items or parts thereof to be performed)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

at the following price: \$ \_\_\_\_\_.

The undersigned agrees to enter into a contract with you to perform the above work, if you are awarded the prime contract.

_____	_____	_____
(Date)	(Telephone No.)	(Name of DBE Subcontractor)
_____		By: _____
(Firm Address)		(Signature)
_____		Name: _____
(City and State)		(Typed)
		Title: _____

**7.8. DBE FORM 4 - DBE UNAVAILABILITY CERTIFICATION**

DBE UNAVAILABILITY CERTIFICATION

I, \_\_\_\_\_, \_\_\_\_\_  
of \_\_\_\_\_, certify that on the dates below,

I invited the following DBE Subcontractor(s) to Proposal work items to be performed on Bikes  
on Trains

<u>DATE OF REQUEST</u>	<u>DBE</u>	<u>NAME OF SUBCONTRACTOR</u>	<u>ITEMS SOUGHT</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

The following Subcontractors submitted Proposals, which were not the low responsible Proposal:

\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_

**End of DBE Forms**



## 7.9. Cost Summary

Software and Licensing Cost	
Conversion Cost	
Training Cost	
Annual Maintenance Cost	
Annual Subscription Cost	
Other Cost	
Other Cost	
Other Cost	
Other Cost	
<b>TOTAL</b>	

Explanation of other costs listed above (required):

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