

**REQUEST FOR PROPOSALS
FOR A TRAINING PROVIDER FOR
GEOGRAPHIC INFORMATION SYSTEMS (ARCGIS) SOFTWARE TRAINING**

Solicitation # 021806-GIS



**EAST-WEST GATEWAY
Council of Governments**

Creating Solutions Across Jurisdictional Boundaries

***1 S. Memorial Drive, Suite 1600
St. Louis, MO 63102***

February 6, 2018

**Request for Proposals
for
A Training Provider for
Geographic Information Systems (GIS) Software Training**

East-West Gateway Council of Governments (the Council) and St. Louis Regional Response System (STARRS) are seeking proposals from a training provider to provide one (1) Geographic Information Systems (GIS) software training course.

Submittals are due no later than **2:00 p.m. local time on March 5, 2018** to the following address:

<p>“RFP – GIS Software Training #021806” c/o Mr. James M. Wild Executive Director East-West Gateway Council of Governments 1 S. Memorial Drive, Suite 1600 St. Louis, MO 63102-2451</p>

Section III contains the formatting, content, and other requirements for a submittal. ***Unless otherwise due to extenuating circumstances and approved by the Council in advance, any submittals received after the date and time listed above will be rejected and returned unopened.***

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Attachments*

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- A Price Proposal
 - B Firm Responsibility Information
 - C Affirmative Action Checklist
 - D Contract Terms & Conditions Comments
 - E RFP Minimum Requirements Checklist
 - F D/S/W/MBE Participation Form
 - G Letter of Intent to Perform as a D/S/W/MBE
 - H Certification Regarding Lobbying
 - I D/S/W/MBEs Contact List (not required for this solicitation)

Appendices**

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- 1 Draft Terms and Conditions
 - 2 Conflicts of Interest Policy

East-West Gateway Council of Governments (the Council) receives funding from Department of Homeland Security/Federal Emergency Management Agency (DHS/FEMA) through the Missouri Office of Homeland Security to administer and implement the Urban Area Security Initiative (UASI) in the St. Louis region. The work under this grant includes providing training opportunities to St. Louis regional first responders, medical and public health personnel and emergency management agencies.

East-West Gateway Council of Governments and St. Louis Area Regional Response System (STARRS) are seeking a training provider to conduct one (1) training course on Geographic Information System (ArcGIS) software. The training will be for beginner - intermediate users from local health departments in the Saint Louis Region. This includes the following Missouri Counties of Franklin, Jefferson, St. Charles, St. Louis and the City of St. Louis, and the Illinois Counties of Madison, Monroe and St. Clair. The course dates / time / location are to be determined.

The Council is seeking a three-day training course for GIS users among Health Departments in the region. Upon completion of the GIS modules, the students will be able to understand the following as it pertains to the field of Public Health:

- Basic map production and analysis using GIS
- GIS terminology
- Saving/sharing databases and files
- Best practices for importing, exporting, and joining tabular data (csv, excel, etc.)
- Best practices for printing, publishing, and exporting maps
- Selecting attributes and creating layers
- Basic use of tools (buffer analysis, etc.)
- Basic geocoding of addresses
- Labeling and Symbolizing features

The following general training requirements must also be met:

- The training will take place in the St. Louis Urban Area.
- The time and locations must be coordinated with the STARRS Project Manager and local health departments receiving the training.
- The course should be able to accommodate between 10-15 students.
- The course shall be held on consecutive days.
- The course will take place in-person with an experienced instructor.
- The course will be classroom-based. There are no field exercise requirements.
- The course should be applicable to personnel from the following disciplines:
 - Epidemiology
 - Infection Prevention
 - Emergency Preparedness
 - Public Health

A location within the St. Louis Urban Area will be provided by a local agency. The local agency will have the software installed on a computer for the training. The training provider must describe any special requirements for the location in sufficient detail in the proposal to allow the local teams to select the location in advance. The training provider must also describe any equipment needed and student requirements / prerequisites in the proposal. Any additional requirements of the students or local agencies shall be provided in the proposal by the training provider.

Costs should include anything associated with the training event, including but not limited to instructor costs (travel, lodging and per diem), logistical requirements (classroom set-up, equipment and special training needs), class materials, and other possible incidentals encountered.

Registration is the responsibility of the vendor, and must include either a form or a website for students to register, and registration information must be provided to STARRS' staff point of contact. Copies of certificates of completion must be provided to East-West Gateway at the end of the course.

The course must be completed by September 15, 2018.

A. Formatting & Other Requirements

Submittals must conform to the following parameters*:

Page #	No more than 25 pages, exclusive of the required attachments
Page Size	8.5" X 11"
Page Orientation	Portrait, Landscape, or Both
Margins	1"
Font Size	Not less than 11 point font
Font Type	No requirement

*The submittal requirements listed above **do not** apply to work samples.

Each responding firm must provide both printed and electronic copies of its submittal, including attachments and work sample. In addition to the parameters noted above, the submittal must adhere to the requirements described below for both the print and electronic versions.

Print Version

# of Copies	3
Tabbing	Divide with tabs, organized in accordance with the outline provided in Part B below*
Binding	No binder clips, paper clips, etc. (can use spiral binding, 3-ring binder, etc.)*

*The tabbing and binding requirements **do not** apply to work samples.

Electronic Version

# of Copies	1
Format	*.pdf
Attachment A	*.pdf and *.xls or *.xlsx
Storage Format	CD or DVD

Several attachments require a signature and both the print and electronic versions of these attachments must include a signature. A list of these attachments is provided below.

B	Firm Responsibility Information
D	Contract Terms & Conditions Comments
E	RFP Minimum Requirements Checklist
F	D/S/W/MBE Participation Form
G	Letter of Intent to Perform as a D/S/W/MBE
H	Certification Regarding Lobbying
I	D/S/W/MBEs Contact List (not required for this solicitation)

B. Content

All of the items listed below must be addressed and included in each submittal. ***If all of these items are not provided in a firm’s submittal, then the Council may deem the firm’s submittal non-responsive and may not evaluate the submittal.***

The Council reserves the right to waive minor errors, omissions, or technicalities as determined to be in the best interest of the Council and that do not impede the Council’s ability to evaluate a responding firm’s quality of work, experience, or capability to perform the requested work.

In addition to the items noted below, each firm should ensure that its submittal provides any information that will be relevant to the evaluation process (see Section IV).

Sub-Part 1 – Approach & Qualifications

1. **Letter of Interest.** This letter must summarize the firm’s approach to the project and describe how the firm is particularly qualified to complete the work described in Section II. The letter must also commit the submittal for a minimum of 90 calendar days and be signed by a firm principal. ***The letter must include the name, phone number, and e-mail address of the person who the Council should contact in the event that questions arise regarding the firm’s submittal.***

2. **Project Approach.** The general scope of work for the project has been developed by the Council’s staff and is provided in Section II. Each firm’s submittal must include further detail about the specific methodology or approach that the firm intends to use to complete the project. Specifically, the description should, at a minimum, address each task listed in Section II and the following:
 - (a) The firm’s approach, including project management, and how this approach will benefit the Council and allow the Council to accomplish its goals for the project.
 - (b) Any unique methods that the firm may employ to complete the project and why these methods are particularly well-suited to the project.

- (c) A proposed project schedule (see Section II, Part C).
3. Qualifications. Each submittal must indicate the qualifications of the responding firm as it relates to the services requested in this RFP. The qualifications should be described in a brief narrative regarding the firm's capabilities to carry out the project, including special assets, areas of expertise, analytical tools, or data sources to which the firm has access. The qualification summary must also include the following:
- (a) *Experience Summaries* – For each key person that will be assigned to the project, the submittal must include an experience summary. The summary should clearly identify the key person's prior experience on similar projects, in similar roles, and outline the responsibilities the person will have in the context of the Council's project. An experience summary must be provided for the following key personnel, as applicable:
- ❖ Account management personnel
 - ❖ Project management
 - ❖ Personnel with specialized experience needed to complete the work
- Full resumes may be included as an attachment to the submittal.*
- (b) *Team Organization Chart* – A graphic representation of the team members that will be assigned to the project. The chart must show the level of organizational responsibility for the key personnel that the firm will assign to the project.
- (c) *Addresses* – The address of the office in which each key person currently works.

Changes to Key Personnel – By responding to this RFP, a firm agrees that the key personnel that the firm identifies in its submittal will be available for the entirety of the project, throughout the term of the contract, as long as that individual is employed by the responding firm or unless the Council agrees to a change in key personnel.

- (d) *Prior Work Experience* – Each submittal must include a description of no less than 3 projects similar in type and scope to the project described in this RFP. The projects described in the submittal must have been undertaken by the responding firm within the previous 5 years. In addition, for each project described, the submittal must include all of the following information:
- (i) Project name and location.
 - (ii) Client point of contact to include: name, phone number, and e-mail address.
 - (iii) Brief project description.
 - (iv) Completion date for both: scheduled completion date and actual completion date.
 - (v) Budget information for both: initial project budget and the final project expenditures.

- (vi) If applicable, an explanation for any deviations in project completion dates or any deviations in the project budget.

Note that the Council understands that, due to confidentiality agreements, some of the above information may be considered confidential; therefore, the Council does not expect firms to provide any confidential information in response to this Section III, Sub-Part 1, #3(d). However, to the extent possible, firms should avoid using project descriptions from those clients that restrict information sharing. If this cannot be avoided, then a responding firm must provide as much non-confidential information as possible. The information provided must allow the Council to determine that the firm's projects meets the requirements described in Section III, Sub-Part 1, #3(d) and that the firm has a history of completing its projects on time and within budget. Responding firms should be aware that if the Council is not provided sufficient information, then the firm's submittal may be deemed non-responsive and rejected.

- (e) *Work Sample(s)* – Each responding firm must submit 3 printed and bound copies and 1 electronic copy of at least 1 work sample that includes the training material that is demonstrative of the type of project described in Section II of this RFP.
- (f) *References* – Each responding firm must provide at least 3 professional references. These references should be entities or organizations for which the responding firm has completed work. The reference information provided in the submittal must include all of the following point of contact information:
- (i) Organization's name.
 - (ii) Contact person's name, phone number, and e-mail address.

Sub-Part 2 – Project Price

The Council intends to award a single, firm fixed price contract for the services described in this RFP. Each submittal must include a price proposal. Each firm must submit its price proposal using *Attachment A – Price Proposal* (Attachment A). Attachment A is available in *.xlsx format. This spreadsheet may only be modified as noted in the file.

*The Council reserves the right to reject, as non-responsive, submittals that **do not** include:*

- ❖ *Attachment A in the required format*
- ❖ *All of the information requested in Attachment A*
- ❖ *A price for each component of the project, including any optional services (if applicable)*
- ❖ *Pricing information for subcontractors*

The Council reserves the right to select any portion of the proposed services, only the optional services, or any combination of the offered / optional services and the final project costs will be determined based upon the services selected.

Sub-Part 3 – Firm Responsibility Information

Each responding firm must provide in its submittal a signed Attachment B – *Firm Responsibility Information* (Attachment B). This information will be used during Step 1 of the evaluation process and may be provided to the selection committee during other stages of the evaluation process. ***A submittal that does not include the information necessary for the Council to make its determination regarding a firm's responsibility may result in the Council determining that the responding firm is not responsible and, therefore, is ineligible to be awarded a contract for the project.***

Attachment B includes several forms, as follows:

1. Corporate Profile
2. Financial & Resource Capacity
 - (a) Time Availability for Key Personnel
3. Insurance Coverage
4. Legal Proceedings
5. Statement of Past Performance
6. Conflicts of Interest Questionnaire & Disclosure Statement
7. Certification Regarding Debarment and Suspension

Each form in Attachment B must be completed in its entirety. A responding firm is **not** permitted to substitute its own format or information for the forms included in Attachment B.

The Council does not expect a responding firm to provide any confidential or proprietary information on any form contained in Attachment B; however, the Council does expect a responding firm to provide sufficient information that the Council can use to make a responsibility determination.

Responding firms should be aware that the Council may deem a firm's submittal non-responsive and reject the submittal for: (1) failure to sign Attachment B; (2) failure to provide all of the information requested in Attachment B; or (3) failure to provide sufficient information for the Council to make a responsibility determination. The Council reserves the right to waive minor errors, omissions, or technicalities in Attachment B as determined to be in the best interest of the Council.

Additional instructions are provided in Attachment B.

Sub-Part 4 – Other Forms & Certifications

1. Affirmative Action Checklist. Each responding firm must complete and submit *Attachment C – Affirmative Action Checklist*.
2. Contract Terms & Conditions. The draft contract terms and conditions are provided in Appendix 1. These terms will govern the project and may change if circumstances warrant it; however, any terms required by state or federal rules, regulations, or statutes or by the Council's agreement with a funding agency, are non-negotiable and are not subject to change. Each responding firm must review the terms and complete, sign, and submit *Attachment D – Contract*

Terms & Conditions Comments, which will notify the Council of the firm's questions or concerns about the contract terms and conditions.

Please note that certain appendices referred to in Appendix 1 (e.g. Appendix I (Scope of Work) and Appendix II (Milestone Payment Schedule)) will not be included in Appendix 1 because these appendices are developed by the Council and the Consultant during contract negotiations.

3. RFP Checklist. Each responding firm must complete, sign, and submit *Attachment E – RFP Minimum Requirements Checklist*.
4. D/S/W/MBE Participation. The Council encourages D/S/W/MBE participation. D/S/W/MBE includes: disadvantaged, small, women-owned, and minority business enterprises. Please refer to Section VII for more information about what constitutes a certified D/S/W/MBE. In order to document the D/S/W/MBE participation for the project, each responding firm must submit the following, as applicable:
 - (a) *No D/S/W/MBE Participation* – If the D/S/W/MBE participation for the project is 0%, the submittal must include a statement that there is no D/S/W/MBE participation for the project.
 - (b) *Some D/S/W/MBE Participation* – If the responding firm is a D/S/W/MBE or intends to hire / has hired a D/S/W/MBE to perform work for the project, then the submittal must include **each** of the following:
 - (i) *Attachment F – D/S/W/MBE Participation Form*.
 - (ii) *Attachment G – Letter of Intent to Perform as a D/S/W/MBE for each certified D/S/W/MBE*.
5. Lobbying Certification. Each responding firm must complete, sign, and submit *Attachment H – Certification Regarding Lobbying*. This certification will also be included as part of any contract that is awarded for the project.

The Council's selection of a firm to provide the services described in this RFP will be conducted in accordance with the Council's purchasing policies and procedures. Unless otherwise noted in this RFP, the Council will open and review each submittal that the Council received by the deadline described in Section IX, Part C. Each submittal will be evaluated according to the steps and criterion listed in this Section IV.

Upon successful selection approval, the Council will make the contract award to a responsible firm which provided a submittal that is most advantageous to the Council. The Council reserves the right to select a firm other than the one that offered the lowest proposed price or to select a firm other than the one with the highest rank (i.e. #1) if doing so would be in the best interest of the Council. The Council also reserves the right to make a selection for the project based solely on the information contained in the submittal and without conducting any discussions with any firm. If the Council decides to conduct discussions, it will proceed as described below.

Discussions and Clarifications

At its option, and if the Council determines that it is in its best interest, the Council may conduct additional discussions with any firm at any time prior to making a final selection. These discussions may pertain, but are not limited to: clarifying information contained in the firm's submittal or provided by the firm to the Council, clarifying information contained in the solicitation documents, obtaining additional information from the firm, negotiating the scope of work / submittal, permitting a firm to modify its submittal, etc. As part of this process, the Council may elect to conduct oral discussions, request more information, and request presentations concerning the firm's project approach and its ability to meet the project's requirements, including the budget. In general, the Council will conduct these discussions with a firm that is in the "competitive range." Competitive range means that the firm has a reasonable chance of being selected for the contract award, when relevant factors are considered (i.e. price, other evaluation / selection factors, etc.); however, the Council may choose to conduct these discussions with all firms that provided a submittal or only those firms that were deemed responsible and that provided a responsive submittal.

If these discussions lead the Council to determine that the solicitation documents were unclear or otherwise deficient and need to be modified, then the Council will follow the procedures described in Section V, Part I.

A. Step 1 – Responsiveness / Firm Responsibility

During Step 1 of the evaluation process, the Council will review a submittal to ensure that it meets all of the minimum RFP requirements and that the responding firm is responsible. Each factor is described in more detail below. No points are assigned during this step of the evaluation process. Rather, the Council reviews the submittal and assigns either a "yes" or a "no" for each item of information reviewed.

1. **Responsiveness.** In order to be deemed responsive, a submittal must meet all of the minimum RFP requirements, as these requirements are described in Section III. A submittal that does not meet the minimum RFP requirements may be rejected as non-responsive and may not continue to future steps of the evaluation and selection process. *The Council reserves the right to waive*

minor errors, omissions, or technicalities as determined to be in the best interest of the Council and that do not impede the Council's ability to evaluate a responding firm's quality of work, experience, or capability to perform the requested work.

2. **Firm Responsibility.** The Council will not award a contract for the project to a firm that the Council determines is not responsible. For each responsive submittal, the Council will conduct a review of the firm's responsibility. The Council may make its determination regarding firm responsibility based upon the responding firm's submittal, reference evaluations, a review of the firm's financial situation, and any other information the Council requests or determines is relevant to its determination. Many of the factors described in this Section IV, Part A, #2 may also be used in the next steps of the evaluation process. ***A submittal that does not include the information necessary for the Council to make its determination regarding firm responsibility may result in the Council determining that the responding firm is not responsible and, therefore, ineligible to be awarded a contract for the project.***
- (a) **Definition** – A “responsible” firm is one that:
- (i) does not have any corporate, legal, or financial barriers to successful performance,
 - (ii) has, or has the ability to obtain, the financial and resource capacity to successfully complete the work described in this RFP within the estimated performance period,
 - (iii) has a satisfactory performance record, and
 - (iv) is not currently suspended or debarred or is not currently being considered for suspension or debarment.
- (b) **Factors** – The Council's determination of firm responsibility may include an evaluation of the following factors:
- (i) The firm's corporate profile. *Does the submittal provide a clear description of the firm and demonstrate that the firm has stability and the organizational controls necessary to perform all of the services throughout the entire contract period?*
 - (ii) The firm's current financial and resource capacity. *Does the submittal indicate that the firm has the necessary financial strength and resources (i.e. staff, facilities, etc.) or the ability to obtain the resources needed to successfully complete the project?*
 - (iii) The firm's past performance and record of integrity and business ethics. *Does the submittal indicate that the firm has a history of successful performance, no history of violating laws, regulations, or rules, and no history of a lack of integrity or business ethics?*
 - (iv) The firm's status regarding suspension or debarment? *Is the firm currently suspended or debarred by any state or federal authority? Is the firm currently being considered for suspension or debarment by any state or federal authority?*

B. Step 2 – Submittal Evaluation

A selection committee will evaluate each submittal that is deemed to be responsive and that is deemed to be from a responsible firm. The selection committee's evaluation will be conducted using the scoring and ranking processes described below.

Sub-Part 1 – Scoring Process

Each submittal will be evaluated and assigned point values as indicated in Sub-Part 4 below. Based on the outcome of the computations performed, each firm will receive a total score from each member of the selection committee.

Sub-Part 2 – Ranking Process

After each selection committee member has independently scored each submittal, the committee will discuss each firm's submittal, any additional information obtained by the Council or from Step 3, and the individual scores. Based on these discussions, the selection committee will, as a group, rank the firms based on a consensus of the committee members.

Sub-Part 3 – Short Listing Process (Optional)

If the Council determines that interviews are necessary, the Council will create a "short-list" of firms. The Council will create this short-list from the highest ranking firms. The short-listed firms will continue to Step 4 of the evaluation process. Those firms that are not short-listed will not be invited for interviews or selected for contract award. The Council is in no way required to create a short-list or to select a certain minimum or maximum number of firms for a short-list.

If the Council determines that interviews are not necessary, then the evaluation process will proceed directly to Step 5. At its option, the Council may proceed from Step 2 to Step 4 and not conduct Step 3 of the evaluation process.

Sub-Part 4 – Scoring Criteria

1. **Qualifications & Experience (35 points).** The qualifications and experience of the firm and the key personnel assigned to the project. The factors that the selection committee may consider include, but are not limited to:
 - ❖ The qualifications of the firm, the subcontractors, and the key personnel assigned to the project
 - ❖ The firm's, the subcontractors', and the key personnel's prior experience conducting training courses similar to the work described in Section II
 - ❖ The firm's experience working with governmental entities similar to the Council
 - ❖ The firm's project descriptions and work sample(s) clearly indicate that the firm has the experience sought by the Council

2. **Project Understanding (25 points)**. The firm's understanding of the project requirements, scope of work, and any conditions that may affect the project. The factors that the selection committee may consider include, but are not limited to:
 - ❖ The firm provided a clear and concise written submittal that demonstrates that the firm understands the scope of work and the Council's goals for the project
 - ❖ The firm's submittal demonstrates a thorough approach or methodology for providing the requested services
 - ❖ The firm and the key personnel are familiar with the Council and its mission / purpose, the project area, any local / regional conditions that may affect the project, and the stakeholders and other constituents that will be affected by the project
 - ❖ The firm has dedicated sufficient personnel to the project so that the project deadlines can be met
 - ❖ The project manager and other key personnel have committed sufficient time to the project so that the project deliverables can be provided within the contract period

3. **Past Performance (20 points)**. The firm's past performance on other projects. The factors that the selection committee may consider include, but are not limited to:
 - ❖ The project descriptions provided by the firm indicate that the firm has consistently completed its projects on time and within budget
 - ❖ The firm's statement of past performance indicates that the firm has a history of successfully completing projects and working closely with clients

4. **Project Price (15 points)**. The factors that the selection committee may consider include, but are not limited to:
 - ❖ The reasonableness and adequacy of the proposed project price, as compared to the other price proposals submitted for the project

5. **D/S/W/MBE Participation (5 points)**. The level of D/S/W/MBE participation the firm will provide and the experience of the D/S/W/MBEs included on the responding firm's project team. The factors that the selection committee may consider include, but are not limited to:
 - ❖ The firm's committed level of D/S/W/MBE participation for the project
 - ❖ The D/S/W/MBEs included on the project team have the experience necessary to complete the work that the responding firm has assigned to the D/S/W/MBE

C. Step 3 – Reference Checks (Optional)
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The Council may elect to contact the references of the top-ranked or short-listed firms. The reference check process, if conducted, will proceed as follows:

1. **Reference Check Forms**. Each reference will be sent a reference check form via e-mail. The reference will be provided the option to provide a reference in one of two ways: (a) complete the form and return it via e-mail or fax; or (b) complete the form over the phone.

2. Deadline. Each reference will be provided a deadline by which he / she must return the completed reference check form or provide a reference over the phone. In the event that a firm's reference does not meet the deadline, the Council may, at its option, contact the responding firm to obtain an alternate reference.
3. Results. No points will be assigned to a firm based upon the reference checks. The reference check forms will be provided to the selection committee to use during Step 4 of the evaluation process. Even if no interviews are conducted, the Council may determine that reference checks will be conducted and the reference check results may be used by the Council or the selection committee to determine the final firm ranking (see Steps 2 and 5).

D. Step 4 – Interviews (Optional)

At its option, the Council may invite the short-listed firms to attend an oral interview. The Council will notify each short-listed firm that it has been selected for an interview. The selection committee will evaluate each firm as described below.

Sub-Part 1 – Scoring Process

Each firm will be evaluated and assigned point values as indicated in Sub-Part 2 below. Based on the outcome of the computations performed, each firm will receive a total score from each member of the selection committee.

Sub-Part 2 – Scoring Criteria

1. Qualifications & Experience (25 points). The qualifications and experience of the firm and the key personnel assigned to the project. The factors that the selection committee may consider include, but are not limited to:
 - ❖ The qualifications of the firm, the subcontractors, and the key personnel assigned to the project
 - ❖ The firm's, the subcontractors', and the key personnel's prior experience conducting training course similar to the work described in Section II
 - ❖ The firm's experience working with governmental entities similar to the Council
2. Project Understanding (25 points). The firm's understanding of the project requirements, scope of work, and any conditions that may affect the project. The factors that the selection committee may consider include, but are not limited to:
 - ❖ The firm provided a clear and concise presentation that demonstrates that the firm understands the scope of work and the Council's goals for the project
 - ❖ The firm's presentation demonstrates a thorough approach or methodology for providing the requested services
 - ❖ The firm and the key personnel are familiar with the Council and its mission / purpose, the project area, any local / regional conditions that may affect the project, and the stakeholders and other constituents that will be affected by the project

E. Step 5 – Final Firm Ranking

1. Post-Interview Final Ranking. If interviews are conducted, then, at the conclusion of Steps 1 through 4 of the evaluation process, the selection committee will develop a final ranking of the firms based on a consensus of the committee members using the information obtained throughout the evaluation process. The Council will note each firm's rank on a Firm Selection Form according to the final firm ranking determined by the selection committee (e.g. 1, 2, 3, 4).
2. No Interviews Conducted. If the Council does not conduct interviews, then the final firm ranking will be the selection committee's consensus ranking that was established during Step 2. The Council will note each firm's rank on a Firm Selection Form.

F. Step 6 – Selection & Negotiations

The final selection and contract award process will proceed as described below. The award process is considered open and on-going until all final negotiations have concluded.

1. Board Approval. After the conclusion of Step 5 and any other discussions / negotiations with the firm, the firm that provided a submittal that is most advantageous to the Council will be recommended to the Council's Board of Directors for contract award and approval of the contract price (this may be a firm that did not receive the highest rank after all stages of the evaluation process (i.e. #1) if it is in the best interest of the Council). If the Board of Directors approves the selection recommendation and contract price, then the Council can begin negotiations with the selected firm.
2. Firm Notifications. Once the Board of Directors has approved the selection recommendation and contract price, the Council will notify the selected firm that it has been awarded the contract. The Council may notify the unsuccessful firms of the results at any time after the Board of Directors has approved the selection recommendation and contract price. The Council may, at its option, elect to notify unsuccessful firms only after all negotiations have been concluded and a contract has been executed.
3. Contract Negotiations. The Council may negotiate the contract terms and, at its option, refine the scope of work. As part of the negotiation process, the Council may elect to conduct oral discussions, request clarifications, and request presentations concerning the firm's project approach and its ability to meet the contract's requirements. If the Council cannot successfully negotiate a contract with the selected firm, then the Council may formally, and in writing, end all negotiations with the selected firm and may elect to:
 - (a) proceed to negotiate with the next available firm in the order of selection ranking until a contract is successfully reached or negotiations with all ranked firms end; or
 - (b) close the procurement process without conducting any negotiations with other firms.

During contract negotiations – with the exception of minor elements of cost, changes needed due to scope refinement, or due to good cause, the Council will not negotiate the project cost and the price provided in the selected firm’s final price proposal and approved by the Board of Directors will be the final contract price.

A. Modifications of the Solicitation Documents

During the procurement process (including the evaluation and selection process), if the Council determines that this RFP is unclear, information is missing, or is otherwise deficient, the Council may decide to modify the solicitation documents by issuing an Addendum. In the event the solicitation documents are modified, the Council will determine how the evaluation and selection process will proceed (i.e. revert back to Step 2) and will explain this process in the Addendum document. The Council will notify the appropriate firms (i.e. the highest ranked, those in the competitive range, etc.) and provide instructions on how to provide a modified submittal. The Council is not required to notify any firms that had a submittal that was deemed non-responsive or any firms that were not deemed responsible. *The Council is under no obligation to modify the solicitation documents or provide any particular firm an opportunity to change its submittal. At all times, the Council will make its decisions based upon what is in the Council's best interest.*

B. Withdrawing a Submittal

A responding firm may withdraw or modify its submittal up to date and time noted in Section IX, Part C. A responding firm that wishes to withdraw or modify its submittal must provide a written notice (signed and on company letterhead) to the Council's designated point of contact identified in Section IX, Part A. Except as noted in Section V, Part A, once the deadline specified in Section IX, Part C has passed, a responding firm will not be permitted to withdraw or modify its submittal, unless the Council determines that it is in the Council's best interest to permit a firm to do so.

C. No Obligation to Award Contract or Pay for Cost to Develop Submittal

This RFP does not commit the Council to award a contract, to pay for any costs incurred in the preparation of a submittal, or to procure or contract for any particular goods or services.

D. Cancellation of this Request

The Council reserves the right to accept or reject any or all of the submittals received as a result of this RFP. The Council may also cancel this RFP, in whole or in part, at any time including, but not limited to, after the Council's Board of Directors has authorized the Executive Director to enter into a contract. The Council will make these determinations based upon what is in the Council's best interest.

E. Unauthorized Communications

After the release of this RFP, a responding firm's contact regarding this RFP or the subject of this RFP must be limited to the person identified in Section IX, Part A. Unless the person contacted is the person identified in Section IX, Part A, any communication (whether oral or written) about this RFP or the

subject of this RFP with any person or organization listed below is prohibited and may result in the responding firm's disqualification from the procurement process.

1. Members of the evaluation team or selection committee.
2. A Council or STARRS staff member.
3. A member of the STARRS Board of Directors or other committees, including the following:
 - (a) Public Health
4. A member of the Council's Board of Directors or other committees.
5. The staff persons or personnel of an organization that will benefit from the project / RFP, including:
 - (a) Public Health agencies in the St. Louis Urban Area

The restrictions noted here apply equally to any of the responding firm's subcontractors or joint venture partners.

F. Gratuities, Favors, Gifts Prohibited

A responding firm is prohibited from offering any gratuity, favor, gift, or anything of monetary value to any officer, employee, agent, director, or Board or committee member of the Council or STARRS for the purpose of influencing a favorable disposition toward the firm's selection for contract award or otherwise affecting the procurement process. *The restrictions noted here apply equally to any of the responding firm's subcontractors or joint venture partners.*

G. Non-Endorsement

If a firm is selected for contract award, the firm shall not issue any news releases or other statements pertaining to the award or the agreement that state or imply the Council's endorsement of the firm's services.

H. Public Records & Information

Responding firms should be aware that any information submitted in response to this RFP might be subject to disclosure under the Missouri Sunshine Act or the Federal Freedom of Information Act. The Council will handle all requests for information related to this RFP in accordance with applicable federal and state statutes. The Council will not disclose any information submitted in response to this RFP *prior* to the selection and retention of a consultant unless the firm provides the Council with written authorization or the Council is compelled to disclose the information by law or judicial decree.

I. Contract Type

The Council anticipates awarding a single, firm fixed price contract paid based upon milestone completion / delivery of training. ***The payments issued by the Council under the contract will be for only completed milestones, and, except as stated in Appendix 1, Paragraph 10, Part (c)(vi), payments for partial milestones completed or percent work completed are not authorized.***

J. Project Funding

The Council anticipates funding the project using the following sources:

CFDA #97.067 Homeland Security Grant Program / Urban Areas Security Initiative Funding from the U.S. Department of Homeland Security through the Missouri Office of Homeland Security (100%).

The Consultant shall not discriminate on grounds of the race, color, religion, sex, disability, age, national origin, or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by 6 CFR Part 21 or 44 CFR Subtitle A, Part 7 including employment practices.

These nondiscrimination requirements apply to all solicitations either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurement of materials or equipment. The Consultant shall notify each potential subcontractor or supplier of these requirements relative to nondiscrimination on grounds of the race, color, religion, sex, disability, age, national origin, or ancestry of any individual.

A. The Council's DBE Program

The East-West Gateway Council of Governments has adopted a Disadvantaged Business Enterprise Program (DBE) to insure that DBEs, which includes small (SBE), women-owned (WBE), minority owned (MBE) (collectively D/S/W/MBE), and other disadvantaged business enterprises, shall have an equal opportunity to participate in Council projects. D/S/W/MBEs are encouraged to provide a submittal as prime contractors for the project. Non-disadvantaged firms are encouraged to use D/S/W/MBEs as subcontractors or form joint ventures on the project. All D/S/W/MBE participation on the project will be governed by the Council's DBE Program.

B. Definitions

1. **Disadvantaged Business.** The term "Disadvantaged Business" means a small business concern:
 - (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and
 - (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

2. **Presumption of Disadvantage.** Members of the following named groups will be presumed to be both socially and economically disadvantaged by the Council:
 - (a) Black Americans,
 - (b) Hispanic Americans,
 - (c) Native Americans,
 - (d) Asian Pacific Americans,
 - (e) Asian Indian Americans,
 - (f) women (regardless of race, ethnicity or origin), and
 - (g) persons certified as socially and economically disadvantaged by the Small Business Administration (SBA) under the SBA Section 8(a) program.

3. **Small Business Enterprise.** The term "Small Business Enterprise" is defined in accordance with the SBA's definition, as follows:
 - (a) *"... a small business concern is one that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period."*

- (b) The Council will use the SBE size standards provided in 13 CFR Part 121 (as it may be amended from time-to-time) to determine a small business enterprise's eligibility.

C. Certifications

1. DBE. In order to be considered a DBE, a firm must be certified and registered as a DBE with the Missouri Department of Transportation. Please refer to the MRCC DBE Directory at: http://www.modot.mo.gov/business/contractor_resources/external_civil_rights/mrcc.htm.
2. W/MBE. In order to be considered a WBE or MBE, a firm must be certified and registered with MoDOT or with the Missouri Office of Equal Opportunity (MoOEO).
3. SBE. In order to be considered an SBE, a firm must certify that it meets the definition of a small business, as indicated above.

A D/S/W/MBE may include in its response a copy of its MoDOT, MoOEO, or SBA certification.

D. DHS / FEMA Requirements

The Department of Homeland Security/Federal Emergency Management Agency (DHS / FEMA) has promulgated regulations to ensure that D/S/W/MBEs have an equal opportunity to participate in projects that are wholly or partially funded with DHS grant money. Firms are required to take affirmative steps to ensure that D/S/W/MBEs are used on the project when possible. These affirmative steps include:

1. placing qualified D/S/W/MBEs on solicitation lists for subcontracts or joint ventures;
2. assuring that D/S/W/MBEs are solicited whenever they are potential sources of work or supplies;
3. dividing total project requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by D/S/W/MBEs;
4. establishing delivery schedules, where the RFP permits, which encourage participation by D/S/W/MBEs; and
5. using the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

In the course of this RFP and the evaluation and selection process, a responding firm (bidder or offeror whose direct economic interest would be affected by the award of the contract) may file a protest when, in the firm's opinion, actions were taken by the Council's staff or the selection committee which could unfairly affect the outcome of the evaluation and selection process.

All protests should be in writing and directed to:

Executive Director
East-West Gateway Council of Governments
1 S. Memorial Drive, Suite 1600
St. Louis, MO 63102

Protests should be made immediately upon the occurrence of the incident in question, but no later than three days after the responding firm received notification of the outcome of the evaluation and selection process. The protest should clearly state the grounds for the protest.

Upon receipt of the protest, the Executive Director will review the actual procedures followed during the evaluation and selection process and the documentation available. If it is determined that the action(s) unfairly changed the outcome of the evaluation and selection process, negotiations with the selected firm will cease until the matter is resolved.

A. Inquiry Submission & Deadline

Inquiries regarding this RFP must be submitted no later than 4:00 p.m. local time on February 21, 2018. The Council will not accept any inquiries after this date and time. Inquiries include questions about or requests for clarification of the information contained in this RFP or about the project in general. All inquiries must be submitted to:

Leah Watkins
Grants & Contracts Coordinator
East-West Gateway Council of Governments
1 S. Memorial Drive, Suite 1600
St. Louis, MO 63102
(314) 421-4220 ext. 263
leah.watkins@ewgateway.org

B. Q & A – Addendums Posted On-Line

In order to ensure that all firms receive the same information about this RFP or the project, the Council will post its response to any inquiry in an addendum on the RFP’s page. Each firm should visit the Council’s website periodically to check for any additional information. If a firm wishes to have a printed copy of the information mailed to it, then the firm must mail or e-mail a written request to the person identified in Section IX, Part A. This request must be received no later than 4:00 p.m. local time on February 21, 2018.

C. Submission Date, Time & Address

Submittals are due no later than **2:00 p.m. local time on March 5, 2018** to the following address:

“RFP – GIS Software Training #021806”
c/o Mr. James M. Wild
Executive Director
East-West Gateway Council of Governments
1 S. Memorial Drive, Suite 1600
St. Louis, MO 63102-2451

A submittal will **not** be accepted if it is:

- ❖ Faxed
- ❖ E-mailed

Section III contains the formatting, content, and other requirements for a submittal. ***Unless otherwise due to extenuating circumstances and approved by the Council in advance, any submittals received after the date and time listed above will be rejected and returned unopened.***

All submittals, including any attachments, appendices, and work samples, that are received in response to this RFP will become the exclusive property of the Council and will not be returned to the responding firm unless otherwise noted in this RFP or the Council determines that returning the submitted materials is warranted.

D. Tentative Interview Schedule

Interviews, if conducted, are tentatively scheduled for Friday, March 16, 2018. It is anticipated that each firm selected for an interview will be notified of the interview no later than Friday, March 9, 2018.

ATTACHMENTS

ATTACHMENT A PRICE PROPOSAL

Consultant Name: _____

Project: Solicitation #021806 RFP - GIS Software Training

Task Description	Proposed Price By Task
Task 1: DELIVERY OF ONE (1) GEOGRAPHIC INFORMATION SYSTEMS (GIS) TRAINING COURSE	\$ -

Total Proposed Price	\$ -
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ATTACHMENT B Firm Responsibility Information

Solicitation #021806 - RFP for GIS Training

Each responding firm must provide in its submittal a fully completed Attachment B - Firm Responsibility Information. This Attachment B includes several forms, as follows:

- (1) Corporate Profile
- (2) Financial & Resource Capacity
 - (a) Time Availability for Key Personnel
- (3) Insurance Coverage
- (4) Legal Proceedings
- (5) Statement of Past Performance
- (6) Conflicts of Interest Questionnaire & Disclosure Statement
- (7) Certification Regarding Debarment and Suspension

Each form in this Attachment B must be completed in its entirety. Please type the information into the forms using Adobe Reader or other compatible Adobe product. The forms in this Attachment B contain rules, which means that many of the boxes / spaces will auto fill depending on your answers to the questions. If you have any issues with the forms please contact the Council's staff person designated in Section IX, Part A of the solicitation documents.

A responding firm is *NOT* permitted to substitute its own format or information for the forms included in this Attachment B.

If you need additional space to provide the information requested in this Attachment B, please use the form titled "Additional Information."

An authorized representative of the responding firm **must sign and date** the certification provided below. **A typed signature is not acceptable.**

The Council does not expect responding firms to provide any confidential or proprietary information on any form contained in this Attachment B; however, the Council does expect a responding firm to provide sufficient information that the Council can use to make a responsibility determination. Incomplete or inaccurate information is not acceptable.

A submittal that does include the information necessary for the Council to make its determination regarding a firm's responsibility may result in the Council determining that the responding firm is not responsible and is, therefore, ineligible to be awarded a contract for the project.

Responding firms should be aware that the Council may deem a firm's submittal non-responsive and reject the submittal for:

- (1) Failure to sign this Attachment B,**
- (2) Failure to provide all of the information requested in this Attachment B, or**
- (3) Failure to provide sufficient information for the Council to make a responsibility determination.**

The Council reserves the right to waive minor errors, omissions, or technicalities in this Attachment B as determined to be in the best interest of the Council.

CERTIFICATION

By signing below, I certify that I am authorized to sign this Attachment B on behalf of my firm and that the information contained in each of the forms contained in this Attachment B (as noted in #1 - 7 above) is accurate and complete to the best of my knowledge.

Responding Firm _____

Name & Title of Authorized Official _____

Signature of Authorized Official _____

Date _____

ATTACHMENT B Firm Responsibility Information

Solicitation #021806 - RFP for GIS Training

#1 - Corporate Profile

Each submittal must include a Corporate Profile Form for the prime contractor. ***Firms that intend to use subcontractors or work in some form of joint venture partnership must provide this form for each subcontractor or joint venture partner.***

This form is for the Prime Contractor. This form is for a Subcontractor. This form is for a Joint Venture Partner.

Firm Name _____ Phone Number _____

Business Address

Street & City _____ State _____ Zip Code _____

Year Established _____ In which State was your firm organized or incorporated? _____

Type of Ownership _____ DUNS # _____ No DUNS #

Is your firm registered to do business in Missouri? Yes No Is your firm registered to do business in Illinois? Yes No N/A

Firms must be properly registered to do business prior to beginning work for the project. If the IL business registration "N/A" box is checked, then only a MO business registration is required for the project.

In the space provided below, please describe your firm's core business.

What is the estimated percentage of total revenues that your firm generates from the type of services described in the solicitation documents? _____

Does your firm have a former name / year established? Yes No Does your firm have a parent company or a subsidiary? Yes No

If your firm has a former name, year established, a parent company, or a subsidiary, in the space provided below, please describe your firm's former name, year established, parent company name and location, or subsidiary name and location, as applicable.

In the space provided below, please provide a summary description of your firm's experience complying with generally accepted accounting principles (if applicable) and applicable state and federal accounting practices (i.e. documenting costs, segregating costs, etc.).

In the space provided below, please provide a summary description of your firm's contract management and accounting procedures.

ATTACHMENT B Firm Responsibility Information

Solicitation #021806 - RFP for GIS Training

#2 - Financial & Resource Capacity

A responding firm is **not** required to include this form in its submittal for the firm's subcontractors or joint venture partners; however, the Council reserves the right to request this information for the firm's subcontractors or joint venture partners.

Responding Firm

In the space provided below, please provide a summary description of your firm's current financial strength (i.e. total revenues, access to lines of credit, etc.) and a description of what information your firm can provide to substantiate its current financial situation (i.e. audit reports / statements, financial statements, etc.). Please attach any relevant, non-confidential supporting documentation or provide a URL where the Council can review this information.

In the space provided below, please provide a summary description of the available resources that your firm can use to complete the project, including your firm's ability to obtain additional resources if needed. Resources include, but are not limited to: staff / personnel, office equipment / space, access to subcontracted resources, and any special materials, programs, etc. that may be required to complete the project.

Within the previous 3 years, has your firm been involved in any bankruptcy or reorganization? Yes No

In light of your firm's current and anticipated work commitments and the time frame estimated for the project (see Section II of the solicitation documents), does your firm have the capacity to successfully complete the project within the estimated performance period? Yes No

Please complete the Time Availability for Key Personnel form that is provided on the next page.



ATTACHMENT B

Firm Responsibility Information

Solicitation #021806 - RFP for GIS Training

#2 - Financial & Resource Capacity - (a) Time Availability for Key Personnel

For each key person that will be assigned to the project, please provide the information requested below. The information regarding current or anticipated projects should reflect only those projects that will be or likely will be occurring during the estimated performance period of the project (see Section II of the solicitation documents). The key personnel listed below should be the same persons identified in Section III, Part B, Sub-Part 1, #3 of the solicitation documents.

Responding Firm

Name & Title	Project Role	Firm	List of Current or Anticipated Projects	% of Time Committed to Other Projects	Hrs. Committed to the Council's Project

Attach as many of these forms as needed to capture all of your firm's key personnel.

ATTACHMENT B Firm Responsibility Information

Solicitation #021806 - RFP for GIS Training

#3 - Insurance Coverage

A responding firm, and each subcontractor hired to work on the project, will be required to meet certain minimum insurance coverage requirements if the firm is awarded a contract for the project. The Council's standard insurance coverage requirements are described in Appendix 2 - Draft Contract Terms & Conditions, Paragraph 5. **Please select one of the options listed below.**

Responding Firm _____

- #1 - My firm's current insurance coverage meets the Council's standard insurance coverage requirements.
- #2 - My firm's current insurance coverage does not meet the Council's standard insurance coverage requirements, but my firm is able to obtain the coverage necessary to meet the Council's requirements.
- #3 - My firm's current insurance coverage does not meet the Council's standard insurance coverage requirements and my firm will not be able to obtain the coverage necessary to meet the Council's requirements. My firm's current insurance coverage is described below.

Please indicate which types of insurance coverage your firm currently carries and indicate the amount of coverage your firm carries. If professional liability insurance is not required for the project (see Appendix 2, Paragraph 5), check the "N/A" box.

- Commercial General Liability Insurance Coverage Aggregate Per Occurrence
- Commercial Automobile Liability Insurance Coverage Per Accident
- Professional Liability Insurance Coverage N/A Aggregate Per Claim

The final insurance coverage requirements will be determined by the Council, in consultation with the firm selected for the contract award. The Council reserves the right to require higher or lower insurance coverage requirements where warranted. The final insurance coverage requirements will be included in any contract entered into between the Consultant and the Council.

Once the contract is awarded, the Consultant may be required to submit proof that it has the agreed upon type and amount of insurance (see Appendix 2, Paragraph 5).

Solicitation #021806 - RFP for GIS Training

#4 - Legal Proceedings

The following questions ask a responding firm to indicate whether or not it has had any legal proceedings or does have any on-going or pending legal proceedings (i.e. arbitration, complaint, administrative process, court action, etc.). The answers that your firm provides to the questions below should be answered "Yes" only if: ***The legal proceeding was filed by an owner, client, contractor, or governmental entity against your firm for any project within the previous 5 years.***

Responding Firm _____

Has your firm had a legal proceeding or does it have an on-going or pending legal proceeding that meets the criteria listed above and that was due to:

Your firm's non-performance? Yes No *If "Yes," was non-performance related to:*

- | | | | |
|--|------------------------------|-----------------------------|------------------------------|
| Failure to complete a project on time? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Failure to complete a project at all? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Unsatisfactory performance? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Providing products of a poor quality? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |

Your firm's breach or default of contract? Yes No *If "Yes," were the proceedings based on:*

- | | | | |
|---------------------|------------------------------|-----------------------------|------------------------------|
| Misfeasance? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Error? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Omission? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Failure to perform? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Other? _____ | | | <input type="checkbox"/> N/A |

Your firm's violation of:

- State law? Yes No
- Federal law? Yes No

State or federal rules or regulations related to:

- | | | |
|--------------------------|------------------------------|-----------------------------|
| business ethics? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| conflicts of interest? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| the procurement process? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Please provide any additional information that you believe will help the Council make a determination regarding your firm's responsibility in light of the legal proceedings described above.

ATTACHMENT B Firm Responsibility Information

Solicitation #021806 - RFP for GIS Training

#5 - Statement of Past Performance (pg. 1 of 2)

The following questions ask a responding firm to provide information about its past performance on the Council's projects, other publicly funded projects, or in general. Each responding firm must indicate whether or not it has successfully completed past projects.

Responding Firm _____

Has your firm ever performed work for the Council? Yes No

If "Yes," in the space provided below, please describe the project (i.e. name, dates, etc.), your firm's role in the project (i.e. prime contractor), and indicate whether your firm successfully completed the project.

In the previous 3 years, has your firm ever performed work on other publicly funded projects? Yes No

If "Yes," in the space provided below, please describe a few of the most recent projects (i.e. names, dates, clients, etc.), your firm's role in the projects (i.e. prime contractor), and indicate whether your firm successfully completed the projects.

N/A If your firm has not worked for the Council or on other publicly funded projects, then, in the space provided below, please describe your firm's performance on a few of its most recent projects (i.e. names, dates, clients, etc.), your firm's role in the projects (i.e. prime contractor), and indicate whether your firm successfully completed the projects.

ATTACHMENT B Firm Responsibility Information

Solicitation #021806 - RFP for GIS Training

#5 - Statement of Past Performance (pg. 2 of 2)

As it relates to contracts your firm has or has had with the Council: N/A

Is your firm currently in breach or default of a contract? Yes No

Is your firm currently delinquent or past due on any monies owed to the Council? Yes No

Firms that are currently in breach or default of a Council contract or that owe the Council monies may be deemed ineligible for a contract award.

In the previous 3 years, has your firm ever had a client (e.g. person / entity contracting with your firm) that:

Terminated the contract for breach or default? Yes No *If "Yes," please indicate the # of times this has occurred.* _____

Sued to compel performance? Yes No *If "Yes," please indicate the # of times this has occurred.* _____

Sued to recover damages including, but not limited to: upon alleged breach of contract, misfeasance, error or omission, or other alleged failure of your firm to perform as required by the contract? Yes No *If "Yes," please indicate the # of times this has occurred.* _____

Called upon a surety to perform the work? Yes No *If "Yes," please indicate the # of times this has occurred.* _____

Please provide any additional information that explains any "Yes" answers to the questions on this page 2 of 2 or any other information that you believe will help the Council make a determination regarding your firm's responsibility in light of the performance issues described on this form.

Solicitation #021806 - RFP for GIS Training

#6 - Conflicts of Interest Questionnaire & Disclosure Statement (pg. 1 of 2)

Instructions

The Council's Conflicts of Interest Policy was included as part of the solicitation documents for the above captioned project. Please refer to this policy for a description of the Council's policies and procedures regarding this Conflicts of Interest Questionnaire & Disclosure Statement (Statement). The definition for each relevant term used in this Statement can also be found in the Council's Conflicts of Interest Policy.

Each responding firm must complete this Statement in full and include a copy in its submittal.

(A) If the responding firm answers "Yes" to any of the questions, then the responding firm must check box #1 below and attach the following: (i) the applicable question number; (ii) a concise description of the conflict; (iii) an explanation as to why the situation does not affect the firm's ability to objectively perform the contract or does not / will not present an unfair competitive advantage to the firm; and (iv) a concise description of the efforts the firm has taken, or proposes to take, to mitigate the effects of the interest.

(B) If the responding firm answers "No" to each question, then the responding firm must check box #2 below certifying that there is no interest and that, to the best of its knowledge and belief, there is no affiliation / relationship that exists that is relevant to a possible conflict of interest.

When completing this questionnaire, please keep the following in mind:

1. "Organizations that are expected to benefit from the project / solicitation" are those organizations that are listed in Section V, Part E of the solicitation documents.
2. References to the firm's "employees" include all personnel of the responding firm, including part-time, contract, or temporary employees.
3. References to committees or sub-committees refer to every committee or sub-committee of the Council or STARRS including the Board of Directors of each organization. These references also include those committees set-up to monitor, oversee, or coordinate specific projects. Membership on any committee or sub-committee includes non-voting or ex officio membership.
4. References to the "firm" include the firm's proposed subcontractors / subconsultants; therefore, the answers given below must take into account the prior, present, or planned activities, relationships, contracts, or financial interests of the subcontractors / subconsultants.

Responding Firm _____

Questions

I. INTERESTS - The questions below relate to the prior, present, or planned interests of the responding firm. Please refer to the Council's Conflicts of Interest Policy for the definition of "prior," "present," and "planned" interests. A firm must respond "Yes" to the question if the firm has an interest, including if the interest is in regard to the Council itself, STARRS, or the organizations that are expected to benefit from the project / solicitation.

- A. **Prior Interest** - In the past year (from the date the solicitation was issued) did the firm engage in activities, relationships, or contracts or have any financial interests that are directly related to the Council's project? Yes No
- B. **Prior Interest** - Has the firm ever engaged in activities, relationships, or contracts or have any financial interests that were conducted / engaged in as a prior part or phase of the Council's project? Yes No
- C. **Present Interest** - Is the firm presently engaged in activities, relationships, or contracts or does the firm presently have any financial interests that are directly related to the Council's project? Yes No
- D. **Planned Interest** - Does the firm have any planned activities, relationships, or contracts or financial interests that are directly related to the Council's project? Yes No

II. COMMITTEES & SUB-COMMITTEES - The questions below relate to the membership on or participation in meetings of the committees and sub-committees of the Council and STARRS. Please refer to note #3 in the Instructions for information about what is meant by "committee" or sub-committee."

- A. Are any of the firm's employees presently members of any Council or STARRS committees or sub-committees? Yes No
- B. In the past year (from the date the solicitation was issued) were any of the firm's employees members of any Council or STARRS committees or sub-committees? Yes No

ATTACHMENT B Firm Responsibility Information

Solicitation #021806 - RFP for GIS Training

#6 - Conflicts of Interest Questionnaire & Disclosure Statement (pg. 2 of 2)

II. COMMITTEES & SUB-COMMITTEES, con't.

- C. Did any of the firm's employees attend any Council or STARRS committee or sub-committee meeting where the project / solicitation was discussed? Yes No

III. COMMUNICATIONS - The questions below relate to communications with the staff / personnel of the Council, STARRS, the organizations that are expected to benefit from the project / solicitation, or any member of Council or STARRS committees or sub-committees. Communications include oral discussions and e-mails or other written correspondence. *A firm must answer "Yes" to the question only if the firm's communications were in regard to the project / solicitation and were with any person other than the person identified in Section IX, Part A of the solicitation documents.*

- A. Did any of the firm's employees communicate with any staff / personnel of the Council? Yes No
- B. Did any of the firm's employees communicate with any staff / personnel of STARRS? Yes No
- C. Did any of the firm's employees communicate with any staff / personnel of the organizations that are expected to benefit from the project / solicitation? Yes No
- D. Did any of the firm's employees communicate with any member of Council and/or STARRS committees or sub-committees? Yes No

IV. SPECIFICATIONS / SCOPE OF WORK FOR PROJECT / SOLICITATION - The questions below relate the development of the specifications / scope of work for the project / solicitation. "Assist" includes providing any information that was used to create the specifications / scope of work for the project / solicitation, except for information that was provided as part of a request for information or similar formal process initiated by the Council. *A firm must answer "Yes" to the question if the assistance was provided directly to the Council itself or if it was provided to STARRS, any of the organizations that are expected to benefit from the project / solicitation, or any member of Council or STARRS committees or sub-committees.*

- A. Did any of the firm's employees assist with the development of the specifications / scope of work for the project / solicitation? Yes No

Based on the information contained in this Statement (please check one):

- #1 -- My firm does / may have an interest, as described in the Council's Conflicts of Interest Policy, and I have provided the information required by Part A of the Instructions above (**Additional Information MUST be attached**). *A firm must check box #1 if the firm answered "Yes" to any of the questions in this Statement.*

OR

- #2 -- My firm does not have an interest, as described in the Council's Conflicts of Interest Policy, and that, to the best of my knowledge and belief, there is no affiliation that exists that is relevant to possible conflicts of interest. *A firm may only check box #2 if it answered "No" to each question in this Statement.*

Please note that if a box is not checked, then the Council will assume that your firm has a conflict of interest and may disqualify it from the procurement process or may deem your firm's submittal non-responsive.

ATTACHMENT B Firm Responsibility Information

Solicitation #021806 - RFP for GIS Training

#7 - Certification Regarding Debarment and Suspension

Please read the certification below and check the appropriate box. If you are unable to provide this certification, then you must provide an explanation in the space provided below.

Responding Firm _____

#1 - I certify that, to the best of my knowledge and belief, that the responding firm and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any State or Federal department or agency;
- (b) Have not within a three-year period preceding its submission for the above captioned project been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding its submission for the above captioned project had one or more public transactions (Federal, State or local) terminated for cause or default.

#2 - I am unable to certify to any of the statements in this certification. *An explanation must be provided in the space below.*

ATTACHMENT B Firm Responsibility Information

Solicitation #021806 - RFP for GIS Training

Additional Information

Use this page to provide any information that you either could not provide on Forms #1 - 7 or that you believe is relevant to the Council's responsibility determination. You may attach as many of these sheets that you need.

Please make sure that you indicate which form and question for which you are providing additional information (i.e. Form #7, Box #2; Form #1, Former Firm Names, etc.)

Responding Firm _____

ATTACHMENT C Affirmative Action Checklist

Solicitation #021806 - RFP for GIS Training

Responding Firm _____

Please answer each of the questions below.

1. Does your firm have an affirmative action plan? Yes No
2. What date was the plan adopted? N/A Date
3. In the spaces below, provide the name and contact information for your firm's affirmative action officer. My firm does not have a person who is responsible for affirmative action matters.

Name _____ Title _____

Phone Number _____ E-mail _____

4. How many persons are employed by your firm? _____

ATTACHMENT D Contract Terms & Conditions Comments

Solicitation #021806 - RFP for GIS Training

Use this form to notify the Council about any concerns you may have about the draft contract terms and conditions. The draft contract terms and conditions can be found as Appendix 2 on the Council's website at www.ewgateway.org/RFPs/rfps.htm. These concerns can include, but are not limited to: questions, comments, or requests for changes.

If the draft contract terms and conditions are acceptable and you do not have any questions, comments, or requests for changes, please check the "No" box.

If you have any questions, comments, or request for changes please check the "Yes" box and use the space provided below to explain your concerns. Please make sure that you reference the applicable contract Paragraph and Part number.

This form must be signed and returned to the Council with your submittal.

It is the responsibility of each responding firm to review the draft contract terms and conditions. The Council may not consider a firm's requests for changes to the contract if the firm's concerns are not noted on this form. It is within the Council's sole discretion to consider requests for contract changes that the selected consultant did not include on this form.

It is within the Council's discretion to decide whether or not to change any contract terms and conditions, even if concerns are noted on this form. Any terms that are required by state or federal rules, regulations, or statutes or by the Council's agreement with a funding agency are not negotiable and are not subject to change.

No - The firm does not have any questions, comments, or requests for changes.

Yes - The firm has a question, comment, or request for a change as noted below.

Responding Firm _____

Name & Title of Authorized Official _____

Signature of Authorized Official _____

Date _____

ATTACHMENT E

RFP Minimum Requirements Checklist

Solicitation #021806 - RFP for GIS Training

This form includes a list of all of the items that need to be included in your submittal. Some items listed on this form may not be required (shown below with an "N/A" option). For those items that are not listed in Section III, Part B of the RFP, check the "N/A" box. Refer to Section III, Part B of the RFP for a complete description of the items listed below. Review Section III, Part A of the RFP for the Submittal Formatting and Other Requirements, including the number of copies that need to be submitted.

Sub-Part 1 - Approach & Qualifications

- 1. Letter of Interest
- 2. Project Approach
- 3. Qualifications
 - (a) Experience Summaries
 - (b) Team Org Chart N/A
 - (c) Addresses
 - (d) Prior Work Experience
 - (e) Work Sample(s) N/A
 - (f) References

Sub-Part 2 - Project Price

Attachment A

Sub-Part 3 - Firm Responsibility Information

Attachment B

Sub-Part 4 - Other Forms & Certifications

- 1. Attachment C
- 2. Attachment D
- 3. Attachment E
- 4. D/S/W/MBE Participation
 - (a) 0% Statement N/A
 - (b) Attachments F & G N/A
- 5. Attachment H N/A
- 6. Attachment I N/A

Responding Firm _____

Name & Title of Authorized Official _____

Signature of Authorized Official _____

Date _____

ATTACHMENT F D/S/W/MBE Participation Form

Solicitation #021806 - RFP for GIS Training

Total Proposed Project Costs

D/S/W/MBE Information

Type of Firm (Check all that apply)	Name & Address	\$ Value of Work	Estimated % Participation
1. <input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE	<input style="width: 95%; height: 30px;" type="text"/>	<input style="width: 95%; height: 30px;" type="text"/>	<input style="width: 95%; height: 30px;" type="text"/>
2. <input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE	<input style="width: 95%; height: 30px;" type="text"/>	<input style="width: 95%; height: 30px;" type="text"/>	<input style="width: 95%; height: 30px;" type="text"/>
3. <input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE	<input style="width: 95%; height: 30px;" type="text"/>	<input style="width: 95%; height: 30px;" type="text"/>	<input style="width: 95%; height: 30px;" type="text"/>
4. <input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE	<input style="width: 95%; height: 30px;" type="text"/>	<input style="width: 95%; height: 30px;" type="text"/>	<input style="width: 95%; height: 30px;" type="text"/>
5. <input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE	<input style="width: 95%; height: 30px;" type="text"/>	<input style="width: 95%; height: 30px;" type="text"/>	<input style="width: 95%; height: 30px;" type="text"/>
Total		<input style="width: 95%; height: 30px;" type="text"/>	<input style="width: 95%; height: 30px;" type="text"/>

In general, any work performed by a firm that is not a D/S/W/MBE cannot be counted toward the D/S/W/MBE participation for the project. This includes work that a D/S/W/MBE subcontracts to a non-D/S/W/MBE. A D/S/W/MBE that has been included as part of the project team must disclose its intent to subcontract a portion of its work to a non-D/S/W/MBE.

Will any of the D/S/W/MBEs listed above subcontract out any of its work to a non-D/S/W/MBE? Yes No

If "Yes," please provide a description of the work that will be subcontracted to a non-D/S/W/MBE and the estimated percentage of work to be subcontracted.

The undersigned submits the above list of D/S/W/MBEs that will be used to accomplish, at least in part, the work described in the solicitation documents.

Responding Firm _____

Name & Title of Authorized Official _____

Signature of Authorized Official _____

Date _____

ATTACHMENT G

Letter of Intent to Perform as a D/S/W/MBE

Solicitation #021806 - RFP for GIS Training

Prime Contractor Name _____

The undersigned intends to perform work in connection with the above captioned project as one of the following (*check one*):

- a prime contractor a subcontractor
 a joint venture other (*please specify*)

The undersigned represents that it is a certified (*check all that apply*):

- DBE SBE
 WBE MBE

The undersigned is prepared to perform the work described below in connection with the above captioned project.

What is the dollar value of the undersigned's work? _____

In general, any work performed by a firm that is not a D/S/W/MBE cannot be counted toward the D/S/W/MBE participation for the project. This includes work that a D/S/W/MBE subcontracts to a non-D/S/W/MBE. A D/S/W/MBE that has been included as part of the project team must disclose its intent to subcontract a portion of its work to a non-D/S/W/MBE.

Will the undersigned subcontract out any of its work to a non-D/S/W/MBE? Yes No

If "Yes," please provide a description of the work that will be subcontracted to a non-D/S/W/MBE and the estimated percentage of work to be subcontracted.

The undersigned submits this letter of intent to perform as a D/S/W/MBE and certifies that it is prepared to perform the work described in this letter for the dollar value indicated above and that the information provided in this letter is accurate and true to the best of his/her knowledge.

D/S/W/MBE Name _____

Name & Title of Authorized Official _____

Signature of Authorized Official _____

Date _____

ATTACHMENT H Certification Regarding Lobbying

Solicitation #021806 - RFP for GIS Training

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 any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance 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.

Responding Firm _____

Name & Title of Authorized Official _____

Signature of Authorized Official _____

Date _____

**AGREEMENT FOR TRAINING SERVICES
EAST-WEST GATEWAY COUNCIL OF GOVERNMENTS
AND
CONSULTANT**

THIS AGREEMENT ("Agreement") is made and entered into by East-West Gateway Council of Governments, the metropolitan planning organization and council of governments for the bi-state St. Louis region formed under and governed by the laws of the State of Missouri, located at 1 S. Memorial Dr., St. Louis, Missouri 63102 (the "Council") and the _____, a _____ formed under and governed by the laws of the _____, located at _____ ("Consultant") (together the "Parties").

For good and valuable consideration the Parties agree as follows:

1. Project Background, Engagement of Consultant & Training Services.

- a. *Project Background.* The Council is party to an Urban Areas Security Initiative ("UASI") grant from the U.S. Department of Homeland Security ("DHS"), Federal Emergency Management Agency ("FEMA") which is administered by the Missouri Office of Homeland Security ("MoOHS"). Under the terms of the UASI grant, the Council assists the St. Louis Urban Area with enhancing its ability to respond to a potential emergency, a criminal terrorist incident, or a man-made or natural disaster. The St. Louis Urban Area is defined as: the City of St. Louis, Franklin, Jefferson, St. Charles, and St. Louis counties in Missouri and Madison, Monroe, and St. Clair counties in Illinois ("Urban Area"). One part of the Council's assistance is to work with the St. Louis Area Regional Response System ("STARRS") to coordinate and pay for training for local emergency response personnel. In _____ STARRS' _____ submitted a request to send Urban Area _____ personnel to _____ training course and this request was approved.
- b. *Engagement of Consultant.* The Council engages Consultant and Consultant shall perform the training services as set forth in this Agreement and designated to Consultant in Paragraph 1, Part (c).
- c. *Training Services.* Consultant shall perform the training services described in this Paragraph 1, Part (c). Consultant shall perform these services in a professional and technical manner, consistent with lawful procedures and standards that govern persons performing similar services, and in compliance with applicable local, state, and federal laws.
 - i. **Course Name, Number, and Description.** Consultant shall provide _____ (the "Course"). The Course will adhere to the description, agenda, and content that is described in Appendix I: Course Description – XXXX ("Appendix I"), which is attached to this Agreement and is incorporated by reference and made a part of this Agreement.
 - ii. **Trainees.** Consultant shall provide the training services for a minimum number of _____ (____) persons who are employed by _____ that are located and provide public safety services within the Urban Area ("Urban Area students"). While

Consultant may admit non-Urban Area students into the course, the Council shall not be responsible to and will not pay for any training provided to a student who is not employed by an Urban Area law enforcement agency. The list of Urban Area students is provided in Appendix I.

- iii. **Consultant Membership.** Consultant shall check the membership status of each Urban Area student to ensure that he / she is a member of _____. If an Urban Area student is not _____ member, Consultant shall immediately notify the Council and the student.
- iv. **Location, Facilities, and Materials.** Consultant shall secure the location, facilities, and any materials that it needs to perform the training services. Consultant shall notify each student of the location of the training and of any materials that a student must bring to the Course. The Council is not responsible for providing or securing a location or facility for the training or any materials required for the Course.

2. Performance Period.

- a. The performance period for this Agreement begins upon _____ and ends no later than _____, unless:
 - i. the performance period is extended through mutual agreement of the Parties and the extension is requested and approved in accordance with Paragraph 4, or
 - ii. this Agreement is terminated.
- b. Consultant understands that the Council's grant funding period imposes strict time constraints for the project and that if Consultant fails to complete the training services during the performance period defined in Paragraph 2, Part (a) the Council may suspend or terminate this Agreement without penalty to the Council.
- c. Consultant shall notify the Council immediately if it will not complete its training services within the performance period and must notify the Council at least seven (7) calendar days prior to the date that the training is scheduled to begin. All notices provided under this Paragraph 2, Part (c) must be completed in accordance with Paragraph 6, Part (b).

3. Compensation.

- a. This is a firm fixed price agreement; with payments to be made upon completion of the Course. The payments issued by the Council to Consultant will be as follows:
 - i. **Tuition Rate.** The Council shall pay tuition for up to a maximum of _____ (____) Urban Area students as follows:
 - 1. **Members.** For each Urban Area student who is a member of _____, the Council will pay a maximum amount of _____ dollars (\$____.00) in tuition. The list of Urban Area students who are members of _____ is provided in Appendix I.

2. **Members.** For each Urban Area student who is not a member of ____, the Council will pay a maximum amount of ____ dollars (\$____.00) in tuition, for up to a maximum of six (6) students. The list of Urban Area students who are not members of Consultant is provided in Appendix I.
3. **Exclusions.** The Council shall not: (a) pay any tuition costs for non-Urban Area students, (b) pay tuition for any more than ____ (__) Urban Area students, or (c) pay the non-member tuition rate for any more than ____ (__) Urban Area students.
 - ii. **Total Costs.** The total amount that the Council will pay for the training services shall not exceed ____ dollars (\$____.00), which includes up to a maximum of ____ Urban Area students who are not Consultant members. ***The payments issued by the Council under this Agreement will only be made if the Course is provided and will only be made for Urban Area students. Except as noted in Paragraph 5, Part (c)(vii), if the Course is cancelled for any reason the Council shall not be responsible for paying Consultant any amount.***
 - iii. **Student Substitutions.** The current list of Urban Area students is provided in Appendix I. The final list of students may change prior to the Course start date due to unexpected schedule conflicts, events, etc. In the event that the Council needs to substitute one student for another, the Council shall pay the tuition rate described in Paragraph 3, Part (a)(i) for the substituted student. Under no circumstances may a non-Urban Area student be substituted for an Urban Area student. If it is feasible, the Council will ensure that Consultant is promptly notified prior to the Course if there are any substitutions.
- b. Unless approved by the Council in writing and in advance, Consultant is responsible for any or all of the costs noted in this Paragraph 3, Parts (b)(i) – (iii). The Council may take appropriate action against Consultant to ensure that ineligible costs, unallowable costs, or unauthorized costs are not continually incurred, including, but not limited to, suspending or terminating this Agreement. The Council is not obligated to pay for any of the following:
 - i. costs incurred for any reason after the performance period ends,
 - ii. costs incurred for any reason for unauthorized tasks, students, services, etc., or
 - iii. costs incurred for any reason by subcontractors, sub-consultants, consultants, vendors, etc. when Consultant procured / purchased the services or goods without adhering to the requirements stated in Paragraph 2 of Appendix II – Special Terms & Conditions – Training Services (“Appendix II”).
- c. Consultant shall submit a written invoice to the Council upon Course completion and by _____. Consultant shall submit its invoice to the Council via mail to the address provided in Paragraph 3, Part (e). Consultant’s invoice package must, at a minimum, include each of the following:
 - i. An invoice that includes all of the information shown on the Sample Invoice, attached to this Agreement as Attachment 1. Consultant may use its own

invoice format; however, the invoice must include all of the required information and the format must be approved by the Council in advance of Consultant submitting its first bill.

- ii. A copy of the completion certificate that was issued to each Urban Area student.
 - iii. A sign-in sheet for **each day** of training that, at a minimum, includes: the date of training, the name of the agency represented, the name of each student, and the signature of each student.
- d. The Council may, in its sole discretion, waive any of the requirements listed in Paragraph 3, Part (c) or may request additional back-up documentation or information.
- e. Consultant shall submit its invoice to the address listed below. Unless specifically requested or authorized by the Council, the Council will not accept electronic, e-mailed, or faxed invoices.

Accounts Payable
East-West Gateway Council of Governments
1 S. Memorial Drive, Suite 1600
St. Louis, MO 63102

- f. **Consultant shall submit its invoice to the Council no later than ____.** Along with the invoice, Consultant shall submit the "Title VI Questionnaire Post-Contracting Stage – Third Party Contractor." Consultant understands that it is within the Council's sole discretion to pay the invoice if it is received after the ____ deadline or if the required Title VI questionnaire is not submitted to the Council. If Consultant needs an extension of the invoice submission deadline, then Consultant shall submit a written request to the Council's point of contact identified in Paragraph 6, Part (a)(i)(1). Consultant's request for an extension of the invoice deadline must be submitted to the Council at least ten (10) days, excluding weekends and federal holidays, in advance of the deadline. Consultant's request must be submitted in accordance with Paragraph 4.
- g. Consultant understands that its failure to submit the invoice by the date stated in Paragraph 3, Part (f) may result in the Council:
- i. withholding payments,
 - ii. denying payment for the invoiced amount,
 - iii. terminating this Agreement, or
 - iv. seeking other remedies available to the Council.
- h. Upon receipt of a timely invoice from Consultant, the Council shall complete a review of the invoice and make a determination as to whether all of the work associated with the Course was completed. Upon completing its review, the Council will request payment from the funding agency. Promptly after receipt of funds from the funding agency for each invoice, the Council shall make payment to Consultant for the amount of the approved invoice. At a minimum, the Council will make payment to Consultant no later than thirty (30) calendar days after receipt of the funds from the funding agency.

- i. In no case will the Council make a payment to Consultant until the Council has reviewed the work completed and found it to be in conformance with the terms of this Agreement. The Council will not withhold payments to Consultant for the Council's failure to complete a timely review of Consultant's completion of the training services. Consultant understands that its failure to submit the required course documentation or its failure to submit the invoice in the proper format will delay the review process and the Council is not obligated to pay for any costs, services, students, etc. that are not substantiated by the course documentation or any invoices that are not submitted in the proper format or submitted by the required due dates. Any payment to Consultant is contingent upon the Council receiving the funds from the funding agency for the performance of the work defined in Appendix I.
- j. Consultant understands that the review and payment period noted in Paragraph 3, Part (h) is contingent upon Consultant and its subcontractors responding to the Council's request for additional information or documentation in a timely manner, and that if Consultant does not respond timely to the Council's requests, then the Council's review or payment process may be delayed and the Council will not suffer any penalty because of these types of delays.
- k. **Prompt Payment.**
 - i. If applicable, Consultant shall pay each subcontractor for the satisfactory performance of the subcontractor's contract no later than thirty (30) calendar days from Consultant's receipt of each subcontractor's invoice. Consultant may not delay or postpone payment to a subcontractor without good cause and without first obtaining the Council's prior written approval. This clause applies to both disadvantaged business enterprise and non-disadvantaged business enterprise subcontractors.
 - ii. If applicable, Consultant shall submit with each invoice the "Subcontractor Payment Tracking Form" that demonstrates when payments are made to subcontractors for the project.
 - iii. If applicable and if Consultant fails or refuses to comply with the terms of Paragraph 3, Parts (k)(i) and (ii), then the Council will issue an order stopping payment or an order stopping work under this Agreement until Consultant has made satisfactory corrective action. Consultant's failure to take corrective action will be considered a breach of contract and the Council may take appropriate action against Consultant up to and including terminating this Agreement for default.

4. Changes & Approvals. Certain changes to the performance period (as stated in Paragraph 2), Appendix I, Appendix II, or other changes to this Agreement must be requested and approved as stated in this Paragraph 4.

- a. *Changes.*
 - i. Except as noted in Paragraph 4, Part (a)(iii), any Consultant request for changes must be submitted to the Council in advance of the change taking effect. Changes include, but are not limited to: changing the course; lengthening or

shortening the performance period; changing subcontractors; changing the work assigned to subcontractors; or reallocating a subcontractor's budget. The Council will consider Consultant's after the fact changes on a limited basis and it is within the Council's sole discretion whether to consider or approve Consultant's after the fact changes.

- ii. In order to request a change to the performance period or Appendix I Consultant shall submit, via mail or e-mail, to the Council's point of contact designated in Paragraph 6, Part (a)(i)(1) a written letter, on letterhead, signed, and dated, that contains:
 1. a clear description of the change requested and a rationale/justification for why the change is necessary,
 2. the proposed effective date of the change, and
 3. a copy of the revised Appendix I, if applicable.
- iii. Consultant must keep the Council's point of contact designated in Paragraph 6, Part (a)(i)(2) informed, in writing (e-mail is acceptable), about changes to the project schedule, including deliverable due dates. If a change to the project schedule will result in Consultant not completing its work within the performance period specified in Paragraph 2, Part (a), then Consultant shall follow the procedures described in Paragraph 4, Part (a)(ii).
- iv. The Council will review Consultant's change request and will send Consultant a written notice of its decision (either via mail or e-mail), and, if Consultant's request is denied, will include an explanation of the Council's decision.
- v. Except as noted in Paragraph 4, Part (a)(vi), any one or combination of the changes in listing in this Paragraph 4, Parts (a)(v)(1) – (4) must be effected through written amendments to this Agreement, signed by the duly authorized representative of each party.
 1. Any change to Appendix I, except as noted in Paragraph 4, Part (a)(iii).
 2. Reallocating a subcontractor's budget.
 3. Any change to the performance period.
 4. A change to the total amount to be paid by the Council for the project.
- vi. The Council may initiate changes to terms of this Agreement (including the performance period), Appendix I (including the project schedule or deliverable due dates), and Appendix II. Except as noted in Paragraph 4, Part (a)(vi)(1) and (2), the Council shall obtain Consultant's written assent to the change, either through a signed amendment or other written communication. Regardless of whether the Council has issued a signed amendment to Consultant or Consultant has provided a written communication to Council regarding its assent to the change, Consultant's assent to the change will be deemed given if, after the Council has communicated a change to Consultant, Consultant submits an invoice or other request for payment to the Council or Consultant accepts

payment from the Council.

1. Certain minor changes to this Agreement may be initiated by the Council and do not require prior authorization or a written amendment to this Agreement. These changes include, but are not limited to, substituting students, changes to the budget implemented by the Council during project close-out or processing final payment for the project, or changing the funding source for the project. In the event that the Council needs to implement these types of changes, the Council does not have to obtain Consultant's written assent in advance; however, the Council will notify Consultant of the change so that Consultant has the information for its records (e-mail notification is acceptable). It is within the Council's sole discretion to determine which minor changes to this Agreement require an amendment and which can be effected as stated in this Paragraph 4, Part (a)(vi). A change that will result in an increase in the total amount paid by the Council for the project is not a "minor change."
 2. In the event that MoOHS, FEMA, or DHS implement changes to the Council's grant agreement or grant budget and these changes affect the terms of this Agreement, the Council will notify Consultant of the change and the change will take effect immediately upon the date provided in the Council's notification to Consultant. In the event of this type of change, the Council does not need to obtain Consultant's written assent to the change. The Council's notification will be in writing and will be sent to Consultant by letter, e-mail, or both.
- b. *Other Requests.* In the event that either party needs to seek approval for changes or other items that are not specifically noted in this Paragraph 4, the party shall submit its written request via e-mail to the other party's point of contact designated in Paragraph 6, Part (a)(i)(1) or (a)(ii)(1), as applicable. The party's request must include both a detailed description of the change or other item for which approval is sought and a rationale/justification for the request. The party receiving the request will notify the requesting party in writing (an e-mail notice is acceptable) of its decision.
- c. *Authorization to Approve Consultant's Requests.*
- i. The Council has sole discretion to approve Consultant's requests, and this Paragraph 4 does not obligate the Council to approve Consultant's requests.
 - ii. The persons listed in this Paragraph 4, Parts (c)(ii)(1) – (3) are authorized by the Council to initiate or to approve Consultant's requests for changes or approvals.
 1. The Council's point of contact listed in Paragraph 6, Part (a)(i)(1).
 2. The Council's Executive Director.
 3. Other person authorized in writing by the persons listed in this Paragraph 4, Part (c)(ii)(1) or (2), when this authorized representative is indicated in writing to Consultant as having this authority.

iii. Consultant understands that the persons listed in this Paragraph 4, Parts (c)(iii)(1) – (3) are not authorized by the Council to initiate or to approve Consultant’s requests for changes or approvals.

1. The Council’s project manager.
2. The Council’s point of contact identified in Paragraph 6, Part (a)(i)(2).
3. Any other person not listed in Paragraph 4, Part (c)(ii).

5. Disputes, Remedies & Termination.

- a. *Disputes.* Any dispute concerning a question of fact arising under this Agreement that is not disposed of by the Parties’ mutual agreement must be decided by the Executive Director, East-West Gateway Council of Governments, who shall mail or otherwise furnish a copy of its decision to Consultant. This decision will be final and conclusive unless Consultant mails or otherwise furnishes a written appeal concerning the question of fact to the Executive Director. Consultant shall submit its written appeal to the Council within thirty (30) calendar days of Consultant’s receipt of a copy of the Executive Director’s decision. The Executive Director shall arrange a formal hearing within fifteen (15) calendar days after the Executive Director’s receipt of Consultant’s appeal. The hearing officer must be a person mutually agreed upon by the Executive Director and Consultant. The hearing officer will send both Consultant and the Executive Director a notice that specifies the date, time, and place for the hearing. The hearing officer’s notice must be sent not less than five (5) business days in advance of the hearing. At the hearing, Consultant and the Council will have the right to present witnesses and give evidence concerning the question of fact. The hearing officer shall give his decision to both Parties within five (5) business days of the close of the hearing. Pending final decision of an appeal to the Executive Director, Consultant shall proceed diligently with the performance of this Agreement. Nothing in this Paragraph 10, Part (a) will be construed as the Executive Director or hearing officer making final decisions regarding any questions of law. “Receipt” is defined in Paragraph 6, Part (b).
- b. *Remedies.* Where Consultant violates, breaches, or otherwise fails to comply with the terms of this Agreement, the Council, in its sole discretion, may:
- i. terminate or suspend this Agreement, in whole or in part,
 - ii. disallow all or part of the cost of the activity or action (including matching funds contributed to the activity) not in compliance with this Agreement,
 - iii. withhold payments to Consultant pending Consultant’s correction of any deficiency,
 - iv. rescind payments made to Consultant if it is later determined that the payment was made for a cost or activity not in compliance with this Agreement,
 - v. recommend that the funding agency initiate suspension or debarment proceedings against Consultant,
 - vi. deem Consultant ineligible to receive any further contract awards from the Council until the deficiency is corrected, or
 - vii. pursue any other available legal or equitable remedy.

c. *Termination.*

i. In accordance with this Paragraph 5, Part (c), the Council may, in its sole discretion, terminate the performance of services under this Agreement for default or convenience. The termination may be of the services as a whole or the services in part.

1. Default, means Consultant commits any one or combination of the actions described in this Paragraph 5, Parts (c)(i)(1)(a) – (g).

a. Consultant has failed or is failing to perform. “Has failed or is failing to perform” means:

- i. Consultant has not made or is not making progress in the work,
- ii. Consultant has not met or is not meeting project deadlines, or
- iii. Consultant has not complied or is not complying with the reporting requirements defined in Paragraph 4 of Appendix II.

b. Except for the provisions noted in Paragraph 5, Part (c)(i)(1)(g), Consultant has violated or is violating a provision of this Agreement

c. Consultant has not complied or is not complying with any Federal, State, or local laws or any regulations that are pertinent to this Agreement, as the noncompliance is determined by the Council, MoOHS, or DHS.

d. Consultant has engaged in or is engaging in the unauthorized use of funds which means that Consultant has used or is using the funds for any purpose other than that provided for in this Agreement.

e. Consultant engaged in or is engaging in a misrepresentation of any type during the procurement process, the contract negotiations, or invoicing / billing process, which if known to the Council, MoOHS, or DHS would have resulted in the Council not awarding the contract to Consultant or the Council not making payments to Consultant.

f. Consultant has failed or is failing to disclose a/an:

- i. after-discovered conflict of interest,
- ii. erroneous certification,
- iii. violation described in Paragraph 6, Part (d), or
- iv. debarment / suspension action initiated or instituted by any state or federal government entity.

- g. Consultant has violated or is violating Paragraph 2, Part (b), any part of Paragraph 6 of Appendix II, or any part of Paragraph 7 of Appendix II.
2. Convenience means whenever it is in the best interest of the Council, including but not limited to:
 - a. at any time when MoOHS or DHS, including any of its agencies, cancels, rescinds, terminates, or otherwise modifies the agreement that it has with the Council whether in whole or in part,
 - b. at any time when MoOHS or DHS does not have or does not provide funding for the project, or
 - c. at any time when the Council no longer needs or desires Consultant's services.
- ii. **Cure Period.** Except as noted in this Paragraph 5, Part (c), upon Consultant's default of this Agreement, the Council will provide Consultant a cure period as follows:
1. For a default described in Paragraph 5, Part (c)(i)(1)(a), Consultant will have a cure period of forty-eight (48) hours (or a longer period as the Council may allow) after Consultant's receipt from the Council of a written notice specifying the default.
 - a. **Exception.** Upon Consultant's fourth (4th) failure to meet a project deadline, the Council may, in its sole discretion, immediately terminate this Agreement without providing Consultant any period to cure the default. This exception applies even if the Council has not previously provided Consultant a written notice of default. "Failure to meet a project deadline" means Consultant does not meet a project deadline and the Council has not provided an express written approval that extends the deadline. The Council's approval must be provided as stated in Paragraph 4.
 2. For a default described in Paragraph 5, Parts (c)(i)(1)(b), Consultant will have a cure period of seven (7) business days (or a longer period as the Council may allow) after Consultant's receipt from the Council of a written notice specifying the default.
 3. For a default described in Paragraph 5, Parts (c)(i)(1)(c) – (g), Consultant will not be provided a cure period, and the Council may, in its sole discretion, immediately terminate this Agreement without any penalty to the Council.
 4. **Failure to Cure a Default.** If Consultant fails to cure a default within the cure period specified in Paragraph 5, Parts (c)(ii)(1) – (2), then the Council, in its sole discretion, may immediately terminate this

Agreement without any penalty to the Council.

- iii. Any termination must be effected by the Council's delivery to Consultant of a written notice specifying whether termination is for the default of Consultant or for the convenience of the Council and the extent to which the performance of services under this Agreement is terminated ("Termination Notice"). The termination will be effective upon Consultant's receipt of the Termination Notice. "Receipt" is defined in Paragraph 6, Part (b).
- iv. Immediately after receipt of a Termination Notice Consultant shall:
 1. stop performance of services under this Agreement to the extent specified in the Termination Notice,
 2. place no further subcontracts for services, except as may be necessary for completion of the portion of the services under this Agreement that were not terminated,
 3. terminate all subcontracts to the extent that they relate to the performance of the services terminated by the Termination Notice,
 4. assign to the Council in the manner and to the extent directed by the Council, all of Consultant's rights, title, and interest under the subcontracts that Consultant terminated because of the Termination Notice. The Council has the discretion to determine which claims arising out of the termination of these subcontracts the Council will pay or settle,
 5. complete performance of the part of the services that were not terminated by the Termination Notice, and
 6. deliver to the Council:
 - a. all work products (in whatever format) created by Consultant under the terms of this Agreement up through the date of termination, and
 - b. any documents or materials furnished by the Council to Consultant or prepared by the Council for Consultant.
- v. After receipt of a Termination Notice, Consultant shall promptly submit to the Council a written claim for amounts due to Consultant (a "Termination Claim"). Consultant shall submit the Termination Claim in the form and with the certification prescribed by the Council. Except as noted in this Paragraph 5, Part (c)(v), Consultant shall submit its Termination Claim to the Council no later than sixty (60) calendar days from the effective date of termination. Consultant may request a longer time period to submit its Termination Claim to the Council. In order to request an extension of the deadline for submitting a Termination Claim, Consultant shall submit a written request to the Council. Consultant's written request must be submitted to the Council within the original sixty (60) day submission time frame. It is within the Council's sole discretion whether to approve Consultant's request for additional time to submit Consultant's Termination Claim. If the Council determines that the facts justify an extension,

it may receive and act upon Consultant's Termination Claim at any time after the original sixty (60) calendar day submission or any extended submission period that was authorized by the Council.

- vi. Consultant's Termination Claim must be based upon the training services completed up through the date of the termination.
- vii. The Council will pay the Termination Claim in accordance with one of the following:
 - 1. If the Council concurs with the amounts claimed on Consultant's Termination Claim and the Council has received all work products created under this Agreement or that were provided to Consultant by the Council, the Council shall proceed with payment. The Council's payment will be deemed the final settlement of all amounts due.
 - 2. If Consultant fails to submit its Termination Claim in the time allowed or fails to submit its Termination Claim with complete information, the Council may determine, based on the available information, the amount due to Consultant because of the termination and will pay to Consultant the amount determined by the Council. The Council's payment will be deemed the final settlement of all amounts due.

6. Contact Information & Notices.

a. *Contact Information.*

i. **The Council's Points of Contact.** The Council's points of contact are as follows:

- 1. The point of contact for questions regarding budgeting, invoicing, reporting, this Agreement, and to seek authorization for changes is _____, East-West Gateway Council of Governments, 1 S. Memorial Drive, Suite 1600, St. Louis, MO 63102; ewgateway.org; 314-421-4220.
- 2. The point of contact regarding the training services is _____, STARRS, 1 S. Memorial Drive, Suite 1600, St. Louis, MO 63102; [@ewgateway.org](mailto:_____@ewgateway.org); 314-421-4220.

ii. **Consultant's Points of Contact.** Consultant's points of contact are as follows:

- 1. The point of contact regarding invoicing is _____.
- 2. The point of contact regarding the scope of services is _____.

b. *Notices.*

i. Except as noted in Paragraph 4, notices required by this Agreement will be deemed given only if given in writing, and delivered to the party's address noted in Paragraph 6, Part (b)(iii) by:

- 1. hand delivery,

2. Federal Express (“FedEx”), United Parcel Service (“UPS”), or similar service, or
 3. U.S. Postal Service registered or certified mail, postage prepaid and return receipt requested.
- ii. All notices will be effective upon first receipt, unless otherwise specified in this Agreement. “Receipt” means when the notice arrives at the address noted in Paragraph 6, Part (b)(iii), as indicated by the first of either one of: the signature of a person employed by or designated by the Council or Consultant, or the delivery date noted on mail/delivery service tracking receipt/slip/other tracking document including internet based or electronic documents (i.e. e-mail or information downloaded from a website).
- iii. The mailing and physical addresses of the Council and Consultant are as follows:
1. The Council:
Executive Director
East-West Gateway Council of Governments
1 S. Memorial Drive, Suite 1600
St. Louis, MO 63102
 2. Consultant:
XXXX
XXXX
XXXX
XXXX
- c. *Changes to Points of Contact or Addresses.* The Parties shall inform each other of any changes in points of contact and contact information, including the organization’s name, address, telephone number, and e-mail. This notice may be given by one or both of an e-mail to the point of contact identified in Paragraph 6, Part (a)(i)(1) or (ii)(1), respectively, or one of the methods noted in Paragraph 6, Part (b)(i).

7. General Terms.

- a. *Flow Down Provisions.* Consultant shall include certain provisions of this Agreement, including the Appendices, in all subcontracts that Consultant enters into under this Agreement. Consultant will coordinate with the Council to ensure that all of the required flow-down provisions are properly included in any subcontract Consultant issues under this Agreement.
- b. *Data Universal Numbering System ("DUNS") Number, Catalog of Federal Domestic Assistance ("CFDA") Number, and Funding Sources.* Consultant's DUNS number is _____. The CFDA Number for this project is 97.067. A total of _____ (\$____) will be provided by DHS through MoOHS from the ____ grant and a total of _____ (\$____) from the ____ grant.
- c. *Information Obtained Through Internet Links.* The Council does not guarantee the accuracy of the information accessed through the internet links provided in this Agreement. Consultant understands that any information it obtains through an internet link contained in this Agreement does not represent an official version of the federal law, state law, regulation, or directive and may be inaccurate; therefore, any information obtained through an internet link is neither incorporated by reference nor made a part of this Agreement.
- d. *Federal Changes.* The Council and Consultant understand that Federal laws, regulations, and directives applicable on the date on that DHS awards Federal assistance for these services may be modified from time to time. In particular, new Federal laws, regulations, and directives may become effective after the effective date of this Agreement. The most recent of the Federal laws, regulations, and directives will apply to the administration of this Agreement at any particular time, except to the extent that DHS determines otherwise in writing.
- e. *No Obligation by the Federal Government.*
- i. The Council and Consultant acknowledge that, despite 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 Agreement and will not be subject to any obligations or liabilities to the Council, Consultant, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying agreement.
- ii. Consultant shall include Paragraph 7, Part (e)(i) in each subcontract financed in whole or in part with Federal funds provided by DHS. Consultant shall not modify Paragraph 7, Part (e)(i), except to identify the subcontractor that will be subject to its provisions.
- f. *Assignability.* Consultant shall not assign, transfer, or delegate any interest in this Agreement without the prior written consent of the Council.

- g. *Governing Law.* This Agreement will be interpreted under and governed by the laws of the State of Missouri.
- h. *Jurisdiction and Venue.* Any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, will be instituted only in the Circuit Court of St. Louis City, Missouri.
- i. *Waiver.* No waiver by either party of any default will be deemed as a waiver of any prior or subsequent default of the same or other provisions of this Agreement, or of the Parties' right to insist on strict compliance with this Agreement after a waiver is given.
- j. *Agreement Binding on Successors.* Unless otherwise prohibited by this Agreement, this Agreement will be binding upon and will inure to the benefit of the Parties of this Agreement, their heirs, administrators, and successors.
- k. *Integration.* This Agreement constitutes the entire understanding of the Parties, and revokes and supersedes all prior agreements between the Parties and is intended as a final expression of their agreement. It may not be modified or amended except in writing and when accomplished in accordance with Paragraph 4.
- l. *Survival of Terms.* All provisions of this Agreement which by their nature should survive termination or expiration of this Agreement will survive, including but not limited to: provisions regarding insurance/liability, indemnification, intangible property, audits, inspections, ownership of documents, access to records, and retention of records.
- m. *Severability.* In the event that any of the terms or provisions of this Agreement are declared void or unenforceable for any reason, the remaining terms and provisions of this Agreement will remain in full force and effect and will not be effected by the declaration.
- n. *Contents of this Agreement.* This Agreement consists of the terms of this Agreement and Appendices I through III. In the event that any conflict of inconsistency arises among the provisions of this Agreement and the provisions of the Appendices or among the provisions of the Appendices, the following order of precedence shall control:
 - i. The Agreement.
 - ii. Appendix I.
 - iii. Appendix II.
 - iv. Appendix III.

IN WITNESS WHEREOF the Parties have caused this instrument to be executed by their respective proper officials and on the dates specified below:

Consultant

East-West Gateway Council of Governments

XXXX

James M. Wild

XXXX

Executive Director

Date

Date

Appendix 1
Draft Contract Terms

Appendix II: Special Terms & Conditions Training Services

_____ (“Consultant”) and East-West Gateway Council of Governments (the “Council”) have entered into an agreement regarding certain training services (the “Agreement”). The training services Consultant will provide are described in Appendix I: Course Description – _____ (“Appendix I”). Consultant understands and agrees that the following terms and conditions apply to the Agreement entered into between Consultant and the Council. These terms and conditions are made a part of and are hereby incorporated into the Agreement. Consultant further understands and agrees that failure to adhere to these terms and conditions constitutes a material breach of its agreement with the Council, and that the Council may take the appropriate action against Consultant to ensure compliance with these provisions, up to and including: ordering a stoppage of work, suspending payments, or terminating the Agreement.

1. Audits & Taxes.

- a. *Audits / Project Review Findings.* In the event that an audit or a project review finds that any of Consultant’s costs charged during the performance period are ineligible, unallowable, or both and these costs have been paid by the Council, Consultant shall return to the Council all dollar amounts paid to Consultant for the ineligible costs, the unallowable costs, or both, plus an amount due for any interest that is charged to the Council by the funding agency for the ineligible costs, the unallowable costs, or both.
- b. *Taxes.* Consultant is responsible for ensuring that it, and any of its subcontractors, fully comply with all applicable federal, state, and local (i.e. St. Louis City) tax laws and Consultant will properly report all monies received under the Agreement and payments Consultant makes to any subcontractor with regard to the services performed under the terms of the Agreement. Consultant understands that if it provides services within the City of St. Louis, Missouri (“City”) it may be subject to the City’s earnings tax and agrees that it will take the steps necessary to track and report the amount (in dollars) of services Consultant provided in the City. Upon the Council’s request, Consultant shall provide to the Council the information that the Council needs to complete Form E-6 (St. Louis City) that is due each year. Further, Consultant shall hold the Council harmless for any taxes, penalties, attorney’s fees, or any other cost imposed upon Consultant or its subcontractor because of Consultant’s failure to properly report payments received or payments made.

2. Personnel and Subcontracting & Purchases / Procurement.

- a. *Personnel and Subcontracting.*
 - i. Consultant represents that it has, or will secure, all personnel required in performing the services under the Agreement. Consultant shall either perform or supervise all of the services required under the Agreement. Consultant is responsible for the satisfactory completion of all services, including those services performed by Consultant’s subcontractors.
 - ii. All of Consultant’s personnel, including subcontracted personnel, engaged in the work must be fully qualified and must be authorized or permitted under state and local law to perform the services described in Appendix I.
 - iii. Consultant is prohibited from engaging any subcontractor, subconsultant, or vendor to perform any services or provide any goods under the Agreement without first following the procedures described in Paragraph 2, Part (b).
 - iv. If applicable, Consultant may not change the subcontractors assigned to the project or change in any way the work assigned to the approved subcontractors without first obtaining the Council’s prior written approval of the Council. The methods for obtaining the Council’s approval are described in Paragraph 4 of the Agreement.
 - v. If applicable, prior to executing any subcontract, Consultant shall submit to the Council a copy of each subcontract so that the Council may review and approve the subcontract format and content. If a change in a subcontractor’s services or compensation is needed, then Consultant shall submit a change request to the Council for review and approval. Consultant may not implement the change until the Council provides its express written approval. The procedures for requesting this type of change is described in Paragraph 4 of the Agreement.

vi. The Council is not an employer of any personnel hired by Consultant to perform the services described in Appendix I. Consultant is fully responsible for:

1. paying any salaries, fringe benefits, unemployment insurance, or workers’ compensation,
2. ensuring that any local taxes, state taxes, and federal taxes are properly withheld from its personnel’s pay, and
3. complying with local, state, and federal reporting requirements that govern compensation and taxation.

b. *Purchases / Procurement.*

- i. Except as noted in Paragraph 2, Part (b)(v), Consultant may not undertake the purchase / procurement of any services or any goods without the Council’s prior written approval. The procedures for obtaining the Council’s approval are described in Paragraph 4 of the Agreement.
 - ii. In addition to its common meaning, “purchase / procurement” also means the hiring of any individual or firm to complete any services or to provide any goods. The meaning of purchase / procurement does not include the hiring of employees to complete services under the Agreement. The term “employees” will have the same meaning as indicated in Section 285-500 *et seq.* RSMo.
 - iii. This Paragraph 2, Part (b) applies to purchases / procurement that are conducted by any one or combination of Consultant, Consultant’s designee, or Consultant’s subcontractors.
 - iv. This Paragraph 2, Part (b) applies to Consultant purchases / procurement that are made with any type of purchasing method or mechanism.
 - v. In the case of printing, binding, or related services, Consultant is not required to obtain the Council’s prior written approval, but Consultant shall retain the procurement documents (i.e. quotes, bids, etc.) and provide the Council with copies of these documents upon the Council’s request.
 - vi. If an item of cost is not included in Consultant’s approved budget, then Consultant may not engage in any purchase / procurement of that item of cost unless and until Consultant notifies the Council of its need to make a purchase / procurement and the Council modifies Consultant’s budget. All budget changes must be requested and approved in accordance with Paragraph 4 of the Agreement, and it is within the Council’s sole discretion to approve any Consultant request for budget modifications.
 - vii. Consultant (including any authorized subcontractors) shall use federally compliant, competitive procurement procedures to purchase any services or goods under the Agreement. These procedures are defined in the Federal Acquisition Regulations (“FAR”) and MoOHS Guidelines.
 - viii. Except as noted in Paragraph 2, Part (b)(v), all purchases / procurements, whether competitive or non-competitive, must be reviewed and approved by the Council in advance of the final selection and retention of a contractor or vendor to provide any services or goods for the project.
- c. If Consultant fails to adhere to the requirements in this Paragraph 2, then the Council may undertake any one or combination of the actions noted in Paragraph 5, Part (b) of the Agreement.

3. Liability & Insurance Coverage.

- a. *Liability.* To the extent allowed or imposed by law, Consultant shall defend, indemnify, and hold harmless the Council including its members and employees, from any claim, suit, liability, damage, loss, or cost (including, but not limited to, attorney’s fees and litigation costs) arising out of or relating to the work performed under the Agreement. Consultant’s obligation under this Paragraph 3, Part (a) is limited to any claim, liability, damage, loss, or cost that is sustained by the Council or any other person or entity for economic injury, intellectual property infringement, property damage, property destruction, or any bodily injury (including, but not limited to, death) and to the extent that the claim arises from or is caused by Consultant’s breach of or default in the terms of the Agreement, the negligence, errors, omissions, or willful misconduct of Consultant,

Appendix II: Special Terms & Conditions Training Services

Consultant's employees, affiliated corporations, or subcontractors in connection with the work performed under the terms of the Agreement.

- i. **Notification and Cooperation.** Both Parties shall promptly notify each other upon the party's receipt of a notice of a claim described in Paragraph 3, Part (a). This notification must be provided in accordance with Paragraph 6, Part (b) of the Agreement. The Council shall cooperate with Consultant in Consultant's efforts to defend, indemnify, or hold harmless the Council as each is described in Paragraph 3, Part (a); however, the Council's cooperation does not preclude the Council from securing and undertaking its own defense if Consultant fails to properly defend the Council.
 - b. **Insurance Coverage.**
 - i. **Commercial and Auto Insurance.** Consultant shall carry, and shall cause its subcontractors to carry, commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and shall name the Council as an additional insured. The current minimum required insurance coverage amounts are as follows:
 1. **Commercial General Liability Insurance (combined single limit):**
\$3,000,000 aggregate limit and
\$1,000,000 per occurrence
 2. **Commercial Automobile Liability Insurance, Hired and Non-Owned Vehicles (combined single limit):**
\$1,000,000 each accident
 - ii. **Workers' Compensation Insurance.** Unless exempted under law, Consultant shall carry insurance in the amount stipulated by law to protect Consultant from claims under workers' compensation acts. If Consultant claims an exemption from this legal requirement, then Consultant shall submit to the Council proof that Consultant is exempt from this requirement under the law.
 - iii. Prior to beginning any work under the Agreement, Consultant shall, for both itself and for each of its subcontractors, provide the Council with written proof of insurance coverage and the additional insured status of the Council. Consultant shall also, upon written request, provide the Council with copies of its commercial general liability insurance (including any umbrella policy) and commercial automobile liability insurance policies.
 - iv. Consultant shall notify the Council in writing within seven (7) calendar days of receiving notices that any of its, or its subcontractors', insurance policies have been reduced, terminated, or cancelled (even in part) for any reason.
 - c. In no event will the language of this Paragraph 3 constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal or state constitution or by federal or state law.
4. **Required Reports.**
 - a. **Title VI Questionnaires.** Upon execution of the Agreement, Consultant shall submit to the Council the "Title VI Questionnaire: Pre-Contracting Stage, Third-Party Contractor." Consultant shall also submit to the Council the "Title VI Questionnaire: Post-Contracting Stage, Third-Party Contractor" along with Consultant's final invoice.
 - b. **Violations.** Consultant must report / disclose to the Council in writing all violations of federal or state criminal law involving fraud, bribery, or gratuity affecting the Agreement. Consultant's written report / disclosure must be provided to the Council no later than fourteen (14) calendar days after Consultant is made aware of the violation.
 - c. If Consultant fails to comply with the terms of this Paragraph 4, then the Council may take action against Consultant as the actions are described in Paragraph 5, Part (b) of the Agreement.
 5. **Intangible Property.**
 - a. **Copyrights.** Under 2 CFR Part 200 § 200.315(b), DHS / FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to reproduce, publish, or use, for Federal Government purposes, the copyright in any work developed under the Agreement and any rights of copyright to which Consultant purchases ownership with the funds, whether in whole or in part, under the Agreement. Unless broader rights are granted elsewhere in the Agreement, the Council, at a minimum, reserves the same license that is granted to DHS / FEMA under this Paragraph 5, Part (a).
 - b. **Patents.** In the event that the work Consultant completes under the Agreement results in a discovery or an invention or a discovery or invention arises or is developed during the course of the Agreement, then Consultant shall comply with all relevant federal laws, regulations, executive orders, or memorandums that pertain to the Federal Government's rights with regard to inventions or discoveries that arise from, are developed during the course of, or are created under an agreement supported in whole or in part with federal funds. Specifically, Consultant will adhere to the Bayh-Dole Act, 35 U.S.C. §§ 200 *et seq.*, as amended, and implementing regulations at 37 CFR Part 401 and other federal regulations found at 2 CFR Part 200 § 200.315(c). Consultant shall promptly report inventions or discoveries to the Council, but in no event shall Consultant make this report later than seven (7) calendar days after a report is required; this report must be made in accordance with Paragraph 6, Part (b) of the Agreement. Consultant shall cooperate fully with the Council, MoOHS, FEMA, or DHS as it pertains to the Federal Government determining its rights to any patentable materials or items. As stated in 37 CFR Part 401.14, at a minimum, DHS / FEMA reserves a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world. Unless broader rights are granted elsewhere in the Agreement, the Council, at a minimum, reserves the same license that is granted to DHS / FEMA under this Paragraph 5, Part (b).
 - c. **Other Data.** DHS / FEMA has the right to obtain, reproduce, publish, or otherwise use the data produced under the Agreement and to authorize others to receive, reproduce, publish, or otherwise use the data for Federal Government purposes. Unless broader rights are granted elsewhere in the Agreement, the Council, at a minimum, reserves the same right that is granted to DHS / FEMA under this Paragraph 5, Part (c). As described in 2 CFR Part 200 § 200.315 (e), Consultant is required to provide to the Council, DHS, FEMA, or any of these entities' duly authorized representatives a copy of research data produced under the Agreement.
 6. **Conflicts of Interests & Gratuities.**
 - a. **Conflicts of Interests.**
 - i. **Interest of Consultant.** Consultant covenants that it presently has no interest and shall not acquire any interest (direct or indirect) which would conflict in any manner or degree with the services Consultant must perform under the Agreement. In the performance of the Agreement, Consultant will not employ any person having these types of interests. Consultant will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of, a personal or organizational conflict of interest or personal gain.
 - ii. **Interest of Members of or Delegates to Congress.** Consultant shall not admit any members of or delegates to the Congress of the United States to any share or part of the Agreement or to any benefit arising from the Agreement.
 - b. **Gratuities.** If the Council finds that Consultant or any agent or representative of Consultant offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the Council (including the St. Louis Area Regional Response System or "STARRS"), MoOHS, FEMA, or DHS and the gratuities were given with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of the Agreement, then the Council may immediately terminate the Agreement and may pursue other rights and remedies provided by law or under the Agreement. The Council's finding must be reached after the Council provides notice to Consultant and conducts a hearing on the matter.

Appendix II: Special Terms & Conditions Training Services

7. Certifications.

a. *Lobbying Certification.*

- i. Consultant certifies compliance with 31 U.S.C. § 1352, and implemented at 44 CFR Part 18 covering government-wide restrictions on lobbying, which provides that no federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influence or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with 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.
- ii. Consultant further certifies that 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, Consultant shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- iii. Consultant shall require that the language of this Paragraph 12, Part (a) be included in the contracts documents for all subcontracts at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative Contracts) and that all subcontractors shall certify and disclose accordingly.
- iv. This certification is a material representation of fact upon which reliance was placed when the Council determined whether to enter into this transaction. Consultant's submission of this certification is a prerequisite for the Council making or entering into this transaction, as the requirement is imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure to file the required certification.
- v. **Prohibition on Lobbying.** Consultant shall not use any Federal funds, either directly or indirectly in support of the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express prior written approval of the Council, MoOHS, FEMA, or DHS.

b. *Debarment, Suspension and Other Responsibility Matters Certification.*

- i. Consultant certifies to the best of its knowledge and belief, that it and its principals:
 1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency,
 2. have not within a three (3) year period preceding this Agreement been convicted of or had a civil judgment rendered against them for:
 - a. commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction,
 - b. violation of federal or state antitrust statutes, or
 - c. commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property,
 3. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any offense, or
 4. have not within a three (3) year period preceding this Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.
- ii. This certification is a material representation of fact upon which reliance was placed when the Council determined whether to

enter into this transaction. If it is later determined that Consultant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the Council may terminate this Agreement for cause. Consultant shall provide immediate written notice to the Council if at any time Consultant learns that its certification was erroneous because of changed circumstances. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded" will have the meaning set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549 and Executive Order 12689 as specified in 2 CFR Part 180 and 2 CFR Part 3000.

- iii. Consultant 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 the Council.
- iv. Consultant shall review the "Excluded Parties Listing System" at www.sam.gov/portal/public/SAM/ and the Missouri "Suspended Vendors List" at content.oa.mo.gov/sites/default/files/suspven.pdf to ensure that it does not enter into any lower tier covered transaction with a person who or firm that is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

Consultant shall include this Paragraph 12, Part (b), without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. Consultant 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 Consultant knows the certification is erroneous.

- c. **Federal Debt Status Certification.** In order to be eligible to receive payments under the Agreement, Consultant must be non-delinquent in its repayment of any Federal debt, including but not limited to, delinquent payroll and other taxes, audit disallowances, and benefits overpayments. Consultant certifies that it is not currently delinquent in its repayment of any Federal debt and shall notify the Council immediately if Consultant will be in breach of this Paragraph 7, Part (a). The Council may immediately terminate the Agreement in the event that Consultant breaches this Paragraph 7, Part (c).
- d. **Duplication of Benefits Certification.** Consultant is required to comply with FAR Part 31.2 and other federal rules and regulations, which provide that any cost allocable to a particular Federal award or cost objective under the principles provided for in the FAR may not be charged to other Federal awards in order to overcome fund deficiencies. Consultant certifies that it will comply with these requirements and acknowledges that, in the event that Consultant fails to so comply, the Council may immediately terminate the Agreement.

8. Inspections and Access to Records & Records Retention.

- a. **Inspections and Access to Records.** Consultant shall allow the Council, MoOHS, FEMA, DHS, the Comptroller General of the United States, or any of these entities' duly authorized representatives, to review and inspect the services performed under the Agreement. Consultant shall also provide each entity access to Consultant's premises and all books, documents, papers, records, correspondence, instructions, receipts, vouchers, and memoranda of every description which are directly pertinent to the Agreement. Consultant will grant this access to each entity for purposes of the entity making audits, examination, excerpts, and transcriptions. This right of access also includes timely and reasonable access to Consultant's personnel for the purpose of interview and discussion related to the records. Each entity's inspection may occur at any time. The Council, if prior notice is warranted and possible, will notify Consultant in advance of the Council's intent to conduct an inspection. The right of access to conduct inspections, audits, examinations, etc. that is described in this Paragraph 8, Part (a) shall remain in place for as long as the records are retained by Consultant and does not expire at the end of the records retention period

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described in Paragraph 8, Part (b).

b. *Records Retention.*

- i. Consultant shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement. Consultant shall retain these records for at least five (5) years from the date provided by the Council in writing (e-mail notification is acceptable). Consultant's retention is required for purposes of State and Federal examination and audit. Consultant may retain the records in an electronic, machine readable format.
- ii. The retention requirement extends, but is not limited to, books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, and related documents and records. Source documents include copies of the Agreement and Consultant's financial and narrative reports. Personnel and payroll records include the time and attendance reports for all individuals paid as part of the project, whether the individuals are employed full-time or part-time.
- iii. If any litigation, claim, negotiation, audit, or other action involving the records has started before the expiration of the five (5) year retention period described in Paragraph 8, Part (b)(i), then Consultant shall retain the records until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- iv. The records retention period may be extended if Consultant is notified in writing by the Council that the records retention period has been extended. The Council's written notice will specify the time frame for the extended records retention period.
- v. Consultant shall adequately protect records against fire or other damage.

9. Administrative & Statutory and Regulatory Requirements.

a. *Administrative Requirements.*

- i. **Council, MoOHS, and DHS Requirements.** Consultant shall at all times comply with all applicable MoOHS, DHS, FEMA, regulations, policies, procedures, and directives, including without limitation, administrative requirements of MoOHS's "Administrative Guide for Homeland Security Grants" and Information Bulletin, as each may be amended or updated from time-to-time and that are available at: dps.mo.gov/dir/programs/ohs/grantstraining; FAR Part 31.2, and any other regulations, policies, procedures and directives that govern the project whether listed directly or by reference in the Agreement. Consultant acknowledges and understands that the administrative requirements of MoOHS are **effective upon issuance**, and that Consultant shall comply with the then-current requirements. Consultant's failure to so comply will constitute a material breach of the Agreement. In addition, Consultant shall comply with the following requirements:
 1. Cooperate with any compliance review or complaint investigation conducted by the Council, MoOHS, DHS, or any combination of these entities.
 2. Provide the Council, MoOHS, DHS, or any combination of these entities with access to and the right to examine and copy records, accounts, and other documents and sources of information related to the Agreement and will permit access to facilities, personnel, and other individuals and information as may be necessary, as required by MoOHS or DHS regulations and other applicable laws or program guidance.
 3. Submit timely, complete, and accurate reports and invoices to the Council and maintain appropriate backup documentation to support the reports and invoices.
 4. Comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
 5. If, during the past three (3) years, Consultant has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, Consultant must provide a list of all

of these types of proceedings, pending or completed, including outcome and copies of settlement agreements to the Council for submission to MoOHS or the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties.

6. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against Consultant, or Consultant settles a case or matter alleging this type of discrimination, Consultant must forward a copy of the complaint and findings to the Council for submission to MoOHS or the DHS awarding office. The United States has the right to seek judicial enforcement of these obligations.
- ii. **Acknowledgement of Federal Funding from DHS.** Consultant will comply with requirements to acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds. The Council will provide Consultant with any language that is required for an acknowledgment.
- iii. **Use of DHS, Seal, Logo, and Flags.** Consultant shall obtain the Council's approval before using the DHS seal(s), logo, crests, or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal log, crests, or reproductions of flags or likenesses of Coast Guard officials.
- iv. **Environmental and Historic Preservation ("EHP").** Consultant shall not undertake any project having the potential to impact EHP resources without the prior written approval of the Council. All projects that may impact EHP resources require an EHP review. Consultant shall notify the Council in writing, no less than one hundred and twenty (120) calendar days, in advance of beginning a project that may impact EHP resources. This restriction applies to, but is not limited to, projects that include communications towers, physical security enhancements, new construction, and modifications to buildings that are fifty (50) years old or greater. Consultant will cooperate fully with the Council, MoOHS, DHS, or any combination of these entities during the EHP review process, including, but not limited to: providing all requested documentation and information, granting access to the project site, and fulfilling information requests in a timely manner. Consultant shall comply with all conditions placed on the project as a result of the EHP review. Any change to the approved project scope of work, as described in the Agreement, will require re-evaluation for compliance with the EHP requirements. If ground disturbance activities occurring during project implementation, Consultant will immediately cease project work in that area and notify the Council in writing. Any construction activities that have been initiated before the full environmental and historic preservation review could result in a non-compliance finding. For these types of projects Consultant shall provide all requested information to the Council so that the Council can file the appropriate reports with MoOHS and DHS.
- v. **Collection and Use of Personally Identifiable Information.** If Consultant collects Personally Identifiable Information ("PII"), as defined by DHS, then Consultant shall have a publicly-available privacy policy that describes what PII Consultant collects, how Consultant uses the PII, whether Consultant shares the PII with third-parties, and how individuals may have their PII corrected where appropriate. Consultant's privacy policy must, at a minimum, comply with the requirements of DHS's guidelines, as each may be amended from time-to-time.
- vi. **Activities Conducted Abroad.** Consultant shall ensure that activities funded by the Agreement and that are carried on outside of the United States are coordinated as necessary with appropriate government authorities and that the appropriate licenses, permits, or approvals are obtained.

b. *Statutory and Regulatory Requirements.*

i. **Civil Rights.**

1. **Non-Discrimination Assurances.** As required by federal law, Consultant certifies that it will comply with all

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applicable federal and state statutes and executive orders, relating to nondiscrimination and equal opportunity, including, but not limited to:

- a. Title VI and VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d – 2000e;
 - b. Title VIII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 3601 *et seq.*;
 - c. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 – 1683 and 1685 – 1686);
 - d. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794;
 - e. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101 *et seq.*;
 - f. The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 – 6107;
 - g. The Drug Abuse, Prevention, Treatment and Rehabilitation Act of 1970, Public Law 91 – 616, and amendments thereto, 42 U.S.C. §§ 4541 *et seq.*;
 - h. The Comprehensive Alcohol Abuse and Alcohol Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91 – 616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 - i. The Public Health Service Act of 1912, as amended, 42 U.S.C. § 290dd – 2;
 - j. Civil Rights Act of 1968, 42 U.S.C. § 3601 *et seq.* and implementing regulations at 24 CFR Part 100;
 - k. Executive Order 13166 – Improving Access to Services for Persons with Limited English;
 - l. Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented by U.S. Department of Labor (“DOL”) regulations (41 CFR Chapter 60); and
 - m. All provisions of Missouri Executive Order No. 94 – 03, promulgating the Code of Fair Practices.
2. Consultant shall comply with all applicable administrative rules and regulations of the federal government relative to nondiscrimination in federally-assisted programs, including but not limited to:
- a. U.S. DHS Regulations, including:
 - i. “Nondiscrimination on the Basis of Race, Color, or National Origin in Programs or Activities Receiving Federal Financial Assistance from the Department of Homeland Security,” 6 CFR Part 21;
 - ii. “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 6 CFR Part 17; and
 - iii. “Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of Homeland Security,” 6 CFR Part 15.
 - b. FEMA Regulations, including:
 - i. “Nondiscrimination in Federally-Assisted Programs,” 44 CFR Part 7;
 - ii. “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 44 CFR Part 19;
 - iii. “Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Federal Emergency Management Agency,” 44 CFR Part 16; and
 - iv. “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 CFR Part 36.
3. **Small Businesses, Minority Owned Firms, and Women’s**

Business Enterprises.

- a. It is the policy of DHS that minority business enterprises (“MBE”) and women business enterprises (“WBE”) have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds.
 - b. Consultant shall ensure that MBE and WBE have the maximum opportunity to participate in the performance of the Agreement. In this regard, Consultant shall take all necessary and reasonable steps, in accordance with 2 CFR Part 200 § 200.321, to ensure that MBE and WBE have the maximum opportunity to compete for and perform portions of the Agreement. In accordance with FEMA regulations, these steps include:
 - i. Placing qualified small minority businesses and WBE on solicitation lists for subcontracts or joint ventures.
 - ii. Assuring that small and minority businesses and WBE are solicited whenever they are potential sources of work or supplies.
 - iii. Dividing total project requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and WBE.
 - iv. Establishing delivery schedules, when the requirements permit, which encourage participation by small and minority businesses and WBE.
 - v. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.
4. Consultant shall not discriminate on the basis of race, color, religion, sex, disability, age, national origin, or ancestry of an individual in the performance of the Agreement. Consultant shall carry out the applicable requirements of 6 CFR Part 21 in the award and administration of DHS assisted contracts.
5. Consultant assures that, as a condition of receiving payments under the Agreement, it will not discriminate on grounds of race, color, religion, sex, disability, age, national origin, or ancestry of an individual in the performance of any services under the Agreement, including the selection and retention of subcontractors and the procurement of materials and leases of equipment.
6. The terms of this Paragraph 9, Part (b)(i) will apply to all of Consultant’s solicitations, either by competitive bidding or negotiation, for work to be performed under a subcontract including procurement of materials or equipment, and Consultant shall notify each potential subcontractor, supplier, or lessor of Consultant’s obligations under the Agreement.
7. Each of the statutes, orders, regulations, or rules, including any later amendments, listed in this Paragraph 9, Part (b)(i) are incorporated by reference and made a part of the Agreement.
8. Consultant shall include the provisions of Paragraph 9, Part (b)(i) in every subcontract, including procurement of materials or leases of equipment.
9. Consultant’s failure to carry out the requirements set forth in this Paragraph 9, Part (b)(i) will constitute a breach of contract and the Council may enforce certain remedies against Consultant including, but not limited to, those remedies expressed in Paragraph 5, Part (b) of the Agreement.
- ii. **False Claims and Program Fraud.**
 1. Consultant acknowledges that the provisions of the False Claims Act, 31 U.S.C § 3729 *et seq.*, and the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and federal implementing regulations, including without limitation

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- DHS regulations at 6 CFR Part 13 – *Program Fraud Civil Remedies*, apply to Consultant’s actions pertaining to the Agreement. Upon execution of the Agreement, Consultant 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 Agreement or the DHS assisted project for which its work is being performed. In addition to other penalties that may be applicable, Consultant 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 and other related federal statutes on Consultant to the extent the Federal Government deems appropriate.
2. Consultant 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 an agreement connected with a project that is financed in whole or in part with Federal assistance originally awarded by DHS under the authority of Public Law 110 – 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001, 6 CFR Part 13 and any other applicable federal statute on Consultant, to the extent the Federal Government deems appropriate.
 3. Consultant shall include Paragraph 9, Parts (b)(ii)(1) and (2) in each subcontract financed in whole or in part with Federal assistance provided by DHS. Consultant shall not modify these clauses, except to identify the subcontractor who will be subject to the provisions.
- iii. **Freedom of Information and Missouri Sunshine Act.** Consultant understands and acknowledges that the Missouri Sunshine Act (“Sunshine Act”), Section 610-010 *et seq.* RSMo, may apply to the information and documents, both paper and electronic, submitted to the Council regarding the services provided under the Agreement. All materials submitted to the Council that are related to the services will become agency records and are or may be subject to the Sunshine Act and to public release through individual Sunshine Act requests, unless the Council determines that a valid exemption under the Sunshine Act applies. The Council has adopted a presumption of disclosure; therefore, the Council does not consent to honor any “routine” confidentiality statements that may appear on any printed or electronic documents or correspondence (e.g. letters, e-mails) that accompany the submission of project information, absent a requirement under federal or state law or regulation that the information must be kept confidential. Consultant shall clearly and specifically mark genuinely confidential or privileged information and shall justify the information as confidential or privileged. The Council will review the documents and information that are the subject of each Sunshine Act request, as permitted by federal or state law or regulation, and determine the extent to which the Council must or should exercise its discretion and withhold the documents. Further, Consultant understands and acknowledges that the applicability of the Sunshine Act or the Council’s exercise of discretion to withhold a document does not affect MoOHS, FEMA, or DHS’s right to make a separate determination about the disclosure of a document related to the project under the Sunshine Act or the Federal Freedom of Information Act (“FOIA”), 5 U.S.C. § 552; however, if MoOHS, FEMA, or DHS makes the determination that a document may be disclosed under the Sunshine Act or FOIA, the Council will presume that the document is subject to disclosure under the Sunshine Act unless Consultant demonstrates otherwise.
- iv. **Drug-Free Workplace.** Consultant certifies that it will comply with the requirements of the federal Drug-Free Workplace Act, 41 U.S.C. § 701 *et seq.*, as amended, and implemented at 44 CFR Part 17 and 2 CFR Part 3001.
- v. **Compliance with Energy Conservation Plans.** Consultant shall comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 *et seq.*
- vi. **Recovered Materials.** Consultant shall comply with all the requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (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.
- vii. **Federal Water Pollution Control Act and Clean Air Act.**
1. Consultant shall comply with all applicable standards, orders, and regulations issued under the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.* and the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* Consultant shall report each recognized violation to the Council and understands and the Council will, in turn, report each recognized violation as required to assure notification to DHS or FEMA and the appropriate Environmental Protection Agency Regional Office.
 2. Consultant shall include these requirements in each subcontract made under the Agreement that exceeds \$100,000.
- viii. **Other Statutory and Regulatory Requirements.** As applicable, Consultant shall comply and ensure compliance on behalf of its employees, with the following statutes and requirements:
1. Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for public purposes regardless of Federal participation in purchases.
 2. Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
 3. Davis-Bacon Act (40 U.S.C. §§ 3141-3148) as supplemented by DOL regulations (29 CFR Part 5), the Copeland “Anti-Kickback” Act (40 U.S.C. §§ 7145 and 18 U.S.C. § 874) as supplemented by DOL regulations (29 CFR Part 3), and Sections 3702 and 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708) as supplemented by DOL regulations (29 CFR Part 5).
 4. Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 *et seq.*) related to protecting components or potential components of the national wild and scenic rivers system.
 5. If applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
 6. National Flood Insurance Act of 1968 Section 1306(c), as amended, which provides for benefit payments under the Standard Flood Insurance Policy for demolition or relocation of a structure insured under the Act that is located along the shore of a lake or other body of water and that is certified by an appropriate State of local land use authority to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels. These regulations are codified at 44 CFR Part 63.
 7. Environmental standards which may be prescribed under the following:
 - a. Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
 - b. Notification of violating facilities under EO 11738;
 - c. Protection of wetlands under EO 11990;
 - d. Evaluation of flood hazards in floodplains in accordance with EO 11988;
 - e. Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 *et seq.*);
 - f. Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act

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- of 1955, as amended (42 U.S.C. §§ 7401 *et seq.*);
- g. Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and
 - h. Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
8. Clean Air Act of 1970 (42 U.S.C. § 7401 *et seq.*), the Clean Water Act of 1977 (33 U.S.C. § 1251 *et seq.* and Executive Order 11738) and Environmental Protection Agency regulations (40 CFR Part 15), which provides for the protection and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters is considered research for other purposes.
 9. Coastal Wetlands Planning, Protection, and Restoration Act of 1990 and Executive Order 11990, which provides that federally funded construction and improvements minimize the destruction, loss, or degradation of wetlands. The Executive Order provides that, in furtherance of Section 101(b)(3) of NEPA (42 U.S.C. § 4331(b)(3)), Federal agencies, to the extent permitted by law, must avoid undertaking or assisting with new construction located in wetlands unless the head of the agency finds that there is no practicable alternative to the construction, and that the proposed action includes all practicable measures to minimize harm to wetlands that may result from the construction. In making this finding, the head of the agency may take into account economic, environmental, and other pertinent factors. The public disclosure requirement described above also pertains to early public review of any plans or proposals for new construction in wetlands. This is codified at 44 CFR Part 9.
 10. Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a-1 *et seq.*).
 11. P.L. 93-348 and federal regulations at 45 CFR Part 46 regarding the protection of human subjects involved in research, development, and related activities supported by this award and assistance. Consultant shall also comply with the requirements in DHS Management Directive 026-04, Protection of Human Subjects, before implementing any work with human subjects. For purposes of 45 CFR Part 46, research means a systematic investigation, including research, development, testing, and evaluation, designed to develop or contribute to general knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes. The regulations specify additional protections for research involving human fetuses, pregnant women, and neonates (Subpart B); prisoners (Subpart C); and children (Subpart D). The use of autopsy materials is governed by applicable State and local law and is not directly regulated by 45 CFR Part 46.
 12. Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§ 2131 *et seq.*) which requires that minimum standards of care and treatment be provided for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public. Consultant shall establish appropriate policies and procedures for the humane care and use of animals based on the Guide for the Care and Use of Laboratory Animals and comply with the Public Health Service Policy and Government Principles Regarding the Care and Use of Animals.
 13. Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 *et seq.*) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
 14. 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7104(g)), as amended, and implementing regulations at 2 CFR Part 175. The Council may terminate the Agreement without penalty if Consultant:
 - a. Engages in severe forms of trafficking in persons during the time that the Agreement is in effect;
 - b. Procures a commercial sex act during the period of time that the Agreement is in effect; or
 - c. Uses forced labor in the performance of the Agreement or any subcontract issued under the terms of the Agreement.
 15. Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728 – 4763) relating to prescribed standards for merit systems for programs funded under on the nineteen (19) statutes or regulations specified in Appendix A of OPM's Standards for Merit System of Personnel Administration (5 CFR Part 900, Subpart F).
 16. Fly America Act of 1974 which codifies requirements of the Preference for U.S. Flag Carriers: Travel supported by U.S. Government funds requirement, which states preference for the use of U.S. flag air carriers (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that this service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretive guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.
 17. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act of 2001), which amends 18 U.S.C. §§ 175 – 175c, among other things, it prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose. The act also establishes restrictions on access to specified materials. "Restricted persons," as defined by the act, may not possess, ship, transport, or receive any biological agent or toxin that is listed as a select agent.
 18. U.S. legal requirements related to combating terrorist financing, which include, but are not limited to: various sanctions programs administered by the U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) and federal statutes that prohibit: financing of terrorism (18 U.S.C. § 2339(C)), providing material support or resources to terrorists (18 U.S.C. § 2339(A)), and providing material support or resources to designated terrorist organizations (18 U.S.C. § 2339(B)). OFAC sanctions programs include, without limitation, the requirements expressed in Executive Order 13224 – *Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*.
 19. In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225(a) *et seq.*, Consultant shall ensure that all conference, meeting, convention, and training space funded in whole or in part by this Agreement comply with the Federal Fire Prevention and Control Act of 1974 (P.L. 93-498), as amended by Section 3(a) of the Hotel and Motel Fire Safety Act of 1990 (15 U.S.C. § 2224).
 20. The statutory requirements for whistleblower protections (if applicable) at 10 U.S.C. § 2409, 41 U.S.C. § 4172, 10 U.S.C. § 2324, and 41 U.S.C. §§ 4304 and 4310.

Conflicts of Interest Policy Procurement Process

A. Policy & Purpose

Actual and perceived objectivity will be an important part of successfully completing any project for East-West Gateway Council of Governments (the Council) including the St. Louis Area Regional Response System (STARRS). Moreover, the Council is committed to ensuring a fair, competitive procurement process. The Council's policy is to award contracts to only those firms whose objectivity or ability to perform the project work is not impaired because of any prior, present, or planned activities, relationships, contracts, or financial interests. Additionally, the Council must ensure that a firm competing for a contract award does not have or will not gain an unfair competitive advantage due to the firm's prior, present, or planned activities, relationships, contracts, or financial interests.

B. Organizational Conflicts of Interest

1. General

The Council is concerned about organizational conflicts of interest that exist, appear to exist, or may arise in the future with respect to the firms responding to a solicitation (i.e. invitation for bids or a request for proposals or qualifications).

2. Conflicts, Occur When

An organizational conflict of interest can occur when a contractor has activities, relationships, contracts, or financial interests that:

- (a) render the contractor unable to provide impartial assistance or advice to the Council,
- (b) limit the contractor's ability to perform its work objectively,
- (c) provide the contractor with an unfair competitive advantage, or
- (d) appear to do (a), (b), or (c).

3. Prior, Present, or Planned

An organizational conflict of interest can arise due to the contractor's prior, present, or planned activities, relationships, contracts, or financial interests that are directly related to the Council's project. In the context of organizational conflicts of interest, the terms prior, present, or planned have the following meanings:

- (a) *Prior* - Refers to one of two situations:
 - (i) those activities, relationships, or contracts that the contractor undertook or financial interests that the firm had within one year preceding the date the solicitation was issued, or
 - (ii) those activities, relationships, contracts, or financial interests that were conducted / engaged in as a prior part or phase of the Council's project no matter when it occurred (i.e. the contractor, under a prior and separate contract, developed specifications for the current project).
- (b) *Present* - Refers to those activities, relationships, or contracts that the contractor is engaged in / committed to or financial interests that the firm had at the time the solicitation was issued or at any time during the procurement / contracting process.
- (c) *Planned* - Refers to those activities, relationships, contracts, or financial interests that the contractor has taken steps towards undertaking / engaging in or intends to undertake / engage in but had not yet initiated at the time the solicitation was issued.

4. Bias and Unfair Competitive Advantage

Organizational conflicts of interest create two issues for the Council: bias and unfair competitive advantage. These terms have the definitions provided in Part B, #4(a).

- (a) *Definitions.*
 - (i) *Bias* - Occurs when a contractor's prior, present, or planned activities, relationships, contracts, or financial interests:
 - (1) render the firm unable to provide impartial advice,
 - (2) prevent the firm from objectively performing work for the Council, or
 - (3) appear to do either of (1) or (2).

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- (i) ***Unfair Competitive Advantage*** - Occurs when a contractor has gained access to information that meets both of the following criteria:
 - (1) the information is non-public, meaning it is information to which other firms competing for the contract award did not have access and it could not have been obtained during the course of the contractor's normal course of business, and
 - (2) the information would unfairly disadvantage other firms during the competitive procurement process.
- (b) ***Bias, Can Arise When*** - The potential for bias usually arises when a contractor has, or appears to have, substantial obligations to both the Council and another organization that may have interests that are different from or compete with the Council's interests. In these situations, a contractor may have an incentive to distort its advice or recommendations to the Council in order to benefit a competing interest of the firm's other client(s). The firm may also perform its work for the Council in such a way that it would benefit the firm's other client rather than in a way that best achieves the Council's goals for the project.
- (c) ***Unfair Competitive Advantage, Can Arise When*** - A contractor may gain access to non-public information in several ways including, but not limited to:
 - (i) The contractor's current or past relationship with the Council / STARRS or with organizations that are expected to benefit from the Council's project.
 - (1) ***Relationships*** - The relationships referred to in Part B, #4(c)(i) are most likely formed through prior contract work that the contractor has completed for the Council / STARRS or the organizations that are expected to benefit from the Council's project, but can also arise through the non-paid activities of the contractor.
 - (ii) The contractor has employees that serve / have served on any one of the Council's / STARRS' committees or sub-committees.
 - (1) ***Committees & Sub-Committees*** - The Council and STARRS have many committees and sub-committees, some of which make decisions regarding the approval of projects, expenditure of funds, and other matters that may directly affect the project that is the subject of the solicitation. A contractor may gain an unfair competitive advantage if a contractor participates in non-public meetings or has an employee that serves in any capacity on one of these committees or sub-committees. Through the committees or sub-committees the contractor may gain access to not only information regarding the project but also the Council's preferences and other information that may not be publicly available.

5. ***Real, Apparent, or Potential***

The Council's policy regarding conflicts of interest applies to those conflicts that are real, apparent, or potential. Each of these terms is defined below.

- (a) ***Real*** - Refers to a conflict that exists in fact.
- (b) ***Apparent*** - Refers to a conflict that appears to exist based on the circumstances when examined under a reasonable person standard.
 - (i) ***Reasonable Person Standard*** - Under the reasonable person standard, the Council will consider how the situation will appear if covered by the news media, how it will appear to the Council's Board of Directors, stakeholders, members, or funding agencies, or how it will appear to the general public.
- (c) ***Potential*** - Refers to a conflict that may not currently exist, but that could arise if the Council does not take steps to mitigate or eliminate the circumstances that may lead to a conflict of interest.
- (d) ***Examples*** - Examples of the various conflicts are provided in Part E.

C. **Disclosing Conflicts of Interest**

1. ***Questionnaire & Disclosure Statement***

Based on the Council's Conflict of Interest Policy, each firm responding to the Council's solicitation must include in its submittal a signed Conflict of Interest Questionnaire & Disclosure Statement that provides the Council with sufficient information to determine if a conflict of interest exists, appears to exist, or could arise with regard to the responding firm.

2. ***Council Review***

The Council will review the information provided by the responding firm on its Conflict of Interest Questionnaire & Disclosure Statement and may seek additional information from the firm. All such information, and any other relevant information, will be used to determine whether a contract award to the responding firm constitutes a real, apparent, or potential conflict of interest.

Conflicts of Interest Policy Procurement Process

3. Conflict Found

If any such a conflict is found to exist during the procurement process, the Council may:

- (a) disqualify the responding firm from the procurement process, or
- (b) determine that it is otherwise in the Council's best interest to continue with the procurement process and award a contract to the responding firm and will include, in the awarded contract, appropriate provisions to mitigate or avoid the conflict.

4. After Discovered Conflicts

- (a) *Definition* - An after discovered conflict of interest is one that a responding firm / contractor discovers either after the Council receives the firm's submittal or after the contract has been awarded.
- (b) *Process* - If an after discovered conflict arises, the responding firm / contractor must make an immediate, written, full disclosure to the Council. This disclosure must include a full description of the conflict and a description of the action that the responding firm / contractor has taken, or proposes to take, to avoid or mitigate such conflict. The disclosure must be sent to the person listed in Part D.
- (c) *Council Review* - In the event of an after-discovered conflict, the Council will review the information provided and, if a conflict is found to exist, will undertake a course of action that is in the best interest of the Council, this may include, but is not limited to:
 - (i) disqualifying the responding firm from the procurement process,
 - (ii) terminating the contract without penalty to the Council, or
 - (iii) continue with the procurement or contracting process and will include, in the awarded contract, appropriate provisions to mitigate or avoid the conflict.

5. Subcontractors

The requirements in this policy apply equally to a responding firm's subcontractors. This means that if the responding firm has hired a subcontractor or proposes to hire a subcontractor for the project then the responding firm is obligated to disclose the information required by this Part C.

6. Failure to Disclose

A firm that is competing for a Council contract has an obligation to disclose a conflict of interest (as it is described in this policy).

- (a) *Definition* - A firm's failure to disclose a conflict can occur when the firm:
 - (i) does not provide the required Conflict of Interest Questionnaire & Disclosure Statement,
 - (ii) refuses to provide additional information the Council has requested, or
 - (iii) misrepresents the information disclosed in the Conflict of Interest Questionnaire & Disclosure Statement.
- (b) *Disqualification / Contract Termination* - A firm's failure to disclose may result in the firm being disqualified from the procurement process. If the failure to disclose is discovered after the contract is awarded, the Council may immediately terminate the contract without penalty to the Council.

D. Point of Contact

Questions regarding this Conflicts of Interest policy and any information that must be submitted pursuant to this policy must be directed to:

Staci Alvarez
Grant/Contract Compliance Administrator
East-West Gateway Council of Governments
1 S. Memorial Drive, Suite 1600
St. Louis, MO 63102
(314) 421-4220 ext. 263
staci.alvarez@ewgateway.org

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E. Examples of Conflicts of Interest

The Council has provided the examples below to illustrate various situations in which an organizational conflict of interest may exist, appear to exist, or could arise. In each situation, the responding firm must disclose its activities, relationships, contracts, or financial interests. The examples below are not exhaustive; there are many situations that may create a real, apparent, or potential conflict of interest.

#1 - The Council is seeking a consultant to perform engineering / architecture work for one of its transportation projects. The transportation project will focus on making bicycle / pedestrian improvements to Street A. Street A is owned and maintained by the City of Z. The Responding Firm has a current contractual relationship with City of Z to perform certain architecture / engineering services with respect to Street A roadway improvements and the intersecting Street B. In this situation Responding Firm may have a conflict of interest which may cause or appear to cause the Responding Firm to be biased. Responding Firm may be put in the position to choose between the competing obligations it has to the Council and its other client, City of Z. Responding Firm may have an incentive to provide the Council biased recommendations or may be unable to objectively perform its work for the Council. On its Conflict of Interest Questionnaire & Disclosure Statement, Responding Firm must disclose its contractual relationship with City of Z.

#2 - The Council is seeking a consultant to perform planning services for Project X. The planning services are related to improving the walkability of Corridor N in R-City. Corridor N is owned and maintained by R-City. R-City is planning to hire a consultant to complete architecture / engineering services as part of a major construction project at a location along Corridor N and within the Project X planning area. R-City is planning to issue a solicitation for these services sometime after Project X has begun. Responding Firm is aware of R-City's construction project and plans to compete for the architecture / engineering contract. In this situation, Responding Firm's planned activities may create a conflict of interest which may cause or appear to cause Responding Firm to be biased. Responding Firm's planned activities with regard to the architecture / engineering project may affect its ability to objectively perform services for Project X and to provide impartial recommendations for improvements to Corridor N. Responding Firm may have also an incentive to perform its services in such a way as to put itself in a better competitive position for the construction project. Moreover, a potential conflict may arise if Responding Firm is selected for the future project and will have competing obligations to the Council and R-City. On its Conflict of Interest Questionnaire & Disclosure Statement, Responding Firm must disclose its plan to compete for the R-City contract.

#3 - The Council is seeking a vendor to build and deliver Truck B. Truck B is being purchased by the Council / STARRS for City of Q Police Department ("QPD"). Prior to the Council issuing the solicitation, a QPD employee contacts Responding Firm and asks for assistance in preparing specifications for Truck B. Responding Firm complies and helps QPD put together the specifications for Truck B. In addition, Responding Firm's personnel attends a couple of meetings of the STARRS Sub-Committee D to discuss the Truck B project and provide the subcommittee with information about Responding Firm's products. The subcommittee meeting is not a public meeting and the information provided to Responding Firm about the project is not publicly available. In this situation, Responding Firm may have a conflict of interest which may or appears to provide Responding Firm with an unfair competitive advantage. First, Responding Firm helped write the specifications for the solicitation which enhances Responding Firm's position during the procurement process. Second, Responding Firm gained access to non-public information by communicating with QPD personnel and attending the Sub-Committee D meetings and this information could not have been obtained during the normal course of Responding Firm's business. Responding Firm must disclose each of the following on its Conflict of Interest Questionnaire & Disclosure Statement: (A) its role in developing the specifications for Truck B, (B) its communications with the QPD employee, and (C) its participation in the Sub-Committee D meetings.

#4 - STARRS Sub-Committee C decided at its last meeting to allocate a portion of its budget to fund a professional services contract to provide training for local first responders. Sub-Committee C's meeting is not a public meeting and the information shared at the meeting is not publically available. Responding Firm provides this type of training as part of its business and it decides to submit a proposal in response to the solicitation. Responding Firm proposes to hire Individual F as a subconsultant for the project. Individual F will serve as the lead trainer in the event that the contract is awarded to Responding Firm. Individual F does not assist Responding Firm with the preparation of Responding Firm's proposal; however, Individual F is a member of Sub-Committee C and attends the sub-committee meetings, including the meeting at which the decision was made regarding the professional services contract. In this situation Responding Firm may have a conflict of interest which may or appears to provide Responding Firm with an unfair competitive advantage. Individual F, and by extension, Responding Firm, had access to non-public information regarding the project and the solicitation and this information could not have been obtained during the normal course of Responding Firm's business. Responding Firm must disclose, on its Conflict of Interest Questionnaire & Disclosure Statement, Individual F's membership on Sub-Committee C and Individual F's participation in Sub-Committee C meetings.