

**AGREEMENT FOR PROFESSIONAL, TECHNICAL, OR EXPERT SERVICES
CONTRACT NO. _____**

SHORT TITLE OF WORK PROJECT:

Safer Routes to School SmartTrips Education & Encouragement Professional Services

This contract is between the City of Portland, acting by and through its Elected Officials, hereafter called "City," and Bicycle Transportation Alliance, hereafter called "Contractor". The City's Project Manager for this contract is Lore Wintergreen.

Effective Date and Duration

This contract shall become effective on June 30, 2008 (or on the date at which every party has signed this contract, whichever is later.) This contract shall expire, unless otherwise terminated or extended, on July 1, 2009.

Statement of Work

- (a) The statement of work is contained in EXHIBIT A attached hereto and by this reference made a part hereof.
- (b) The delivery schedule for the work is identified in EXHIBIT A.

Consideration

- (a) City agrees to pay Contractor a sum not to exceed \$272,500 for accomplishment of the work.
- (b) Interim payments shall be made to Contractor according to the schedule identified in EXHIBIT A.

Terms and conditions listed on pages 2 - 4.

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CONTRACTOR DATA, CERTIFICATION, AND SIGNATURE

Name (please print): Bicycle Transportation Alliance
Address: P.O. Box 9072, Portland, Oregon 97207-9072
Social Security #: _____
Federal Tax ID #: 93-1057956 State Tax ID #: _____ Business License # 440870 Exempt
Citizenship: N/A Nonresident alien Yes No
Business Designation (check one): Individual Sole Proprietorship Partnership Corporation
 Limited Liability Co (LLC) Estate/Trust Public Service Corp. Government/Nonprofit

Payment information will be reported to the IRS under the name and taxpayer I.D. number provided above. Information must be provided prior to contract approval. Information not matching IRS records could subject you to 20 percent backup withholding.

I, the undersigned, agree to perform work outlined in this contract in accordance to the terms and conditions (listed on pages 2-4 and made part of this contract by reference) and the statement of work made part of this contract by reference; hereby certify under penalty of perjury that I/my business am not/is not in violation of any Oregon tax laws; hereby certify that my business is certified as an Equal Employment Opportunity Affirmative Action Employer and is in compliance with the Equal Benefits Program as prescribed by Chapter 3.100 of Code of the City of Portland; and hereby certify I am an independent contractor as defined in ORS 670.600.

Approved by the Contractor: _____
Signature/Title Date

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CITY OF PORTLAND SIGNATURES

Approved by Mayor or Commissioner: _____
Elected Official or Delegate Date

Approved by City Auditor: _____
City Auditor Date

Approved as to Form
by City Attorney: _____
Office of City Attorney Date

**CITY OF PORTLAND
STANDARD CONTRACT PROVISIONS FOR
PROFESSIONAL, TECHNICAL & EXPERT SERVICES (MANDATORY PROVISIONS)**

1. Access to Records

The Contractor shall maintain, and the City of Portland ("City") and its duly authorized representatives shall have access to the books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for cost of copies is reimbursable by the City.

2. Audits

(a) The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and services specified in this agreement at any time in the course of the agreement and during the three (3) year period established by section 1, **Access to Records**. Audits will be conducted in accordance with generally accepted auditing standards as promulgated in Government Auditing Standards by the Comptroller General of the United States General Accounting Office.

(b) If an audit discloses that payments to the Contractor were in excess of the amount to which the Contractor was entitled, then the Contractor shall repay the amount of the excess to the City.

(c) If any audit shows performance of services is not efficient in accordance with Government Auditing Standards, or that the program is not effective in accordance with Government Auditing Standards, the City may pursue remedies provided under section 5, **Early Termination of Agreement** and section 7, **Remedies**.

3. Effective Date and Duration

The passage of the contract expiration date (as recorded on reverse side) shall not extinguish, prejudice, or limit either party's right to enforce this contract with respect to any default or defect in performance that has not been cured.

4. Order of Precedence

This contract consists of the terms and conditions of this contract, the Request for Proposals (RFP) issued by the City, if any, and the Contractor's proposal in response to the RFP. In the event of any apparent or alleged conflict between these various documents, the following order of precedence shall apply to resolve the conflict: a) this contract's terms and conditions, b) the City's RFP, and c) the Contractor's proposal in response to the RFP.

5. Early Termination of Agreement

(a) The City and the Contractor, by mutual written agreement, may terminate this Agreement at any time.

(b) The City, on thirty (30) days written notice to the Contractor, may terminate this Agreement for any reason deemed appropriate in its sole discretion.

(c) Either the City or the Contractor may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within fifteen (15) days of the notice, then the party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination.

6. Payment on Early Termination

(a) In the event of termination under subsection 5(a) or 5(b), **Early Termination of Agreement** hereof, the City shall pay the Contractor for work performed in accordance with the Agreement prior to the termination date.

(b) In the event of termination under subsection 5(c), **Early Termination of Agreement** hereof, by the Contractor due to a breach by the City, then the City shall pay the Contractor as provided in subsection (a) of this section.

(c) In the event of termination under subsection 5(c), **Early Termination of Agreement** hereof, by the City due to a breach by the Contractor, then the City shall pay the Contractor as provided in subsection (a) of this section, subject to set off of excess costs, as provided for in section 7(a), **Remedies**.

(d) In the event of early termination all of the Contractor's work product will become and remain property of the City.

7. Remedies

(a) In the event of termination under subsection 5(c), **Early Termination of Agreement**, hereof, by the City due to a breach by the Contractor, then the City may complete the work either itself, by agreement with another contractor or by a combination thereof. In the event the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this contract, then the Contractor shall pay to the City the amount of the reasonable excess.

(b) The remedies provided to the City under section 5, **Early Termination of Agreement** and section 7, **Remedies** for a breach by the Contractor shall not be exclusive. The City also shall be entitled to any other equitable and legal remedies that are available.

(c) In the event of breach of this Agreement by the City, then the Contractor's remedy shall be limited to termination of the Agreement and receipt of payment as provided in section 5(c), **Early Termination of Agreement** and section 6(b), **Payment on Early Termination** hereof.

8. Subcontracts and Assignment

Contractor shall not subcontract, assign or transfer any of the work scheduled under this agreement, without the prior written consent of the City. Notwithstanding City approval of a subcontractor, the Contractor shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Contractor hereunder. The Contractor agrees that if subcontractors are employed in the performance of this Agreement, the Contractor and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

9. Compliance with Applicable Law

In connection with its activities under this Agreement, Contractor shall comply with all applicable federal, state and local laws and regulations including the City's Equal Benefits Ordinance and its administrative rules, all of which are incorporated by this reference. Failure to comply with the Ordinance permits the City to impose sanctions or require remedial actions as stated in Section 13.1 of the administrative rules. Contractor shall complete Exhibit B, Independent Contractor/Workers' Compensation Insurance Questionnaire, which is attached hereto and by this reference made a part hereof.

9a. Indemnity - Claims for Other than Professional Liability

Contractor shall defend, save, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, suits, or actions of whatsoever nature, including intentional acts, resulting from or arising out of the activities of Contractor or its subcontractors, agents or employees under this agreement. Nothing in this section requires the Contractor or its insurer to indemnify the City for any claims or losses arising out of death, or bodily injury to persons, or property damage caused by the negligence of the City.

9b. Indemnity - Claims for Professional Liability

Contractor shall defend, save, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, suits, or actions arising out of the professional negligent acts, errors or omissions of Contractor or its subcontractors and sub-consultants, agents or employees in performance of professional services under this agreement. Nothing in this section requires the Contractor or its insurer to indemnify the City for any claims or losses caused by the negligence of the City.

9c. Indemnity - Standard of Care

If Contractor's services involve engineering or consulting, the standard of care applicable to Contractor's service will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed. Contractor will re-perform any services not meeting this standard without additional compensation.

10. Insurance

Exhibit C is hereby referenced and made a part of this contract.

11. Ownership of Work Product

All work products produced by the Contractor under this contract is the exclusive property of the City. "Work product" shall include but not be limited to research, reports, computer programs, manuals, drawings, recordings, photographs, artwork and any data or information in any form; the Contractor and the City intend that such work product shall be deemed "work made for hire" of which the City shall be deemed the author. If for any reason a work product is deemed not to be a "work made for hire," the Contractor hereby irrevocably assigns and transfers to the City all right, title and interest in such work product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrines. Contractor shall obtain such interests and execute all documents necessary to fully vest such rights in the City. Contractor waives all rights relating to work product, including any rights arising under 17 USC 106A, or any other rights of authorship, identification or approval, restriction or limitation on use or subsequent modifications. If the Contractor is an architect, the work product is the property of the Contractor-Architect, and by execution of this contract, the Contractor-Architect grants the City an exclusive and irrevocable license to use that work product.

12. Nondiscrimination

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans With Disabilities Act of 1990 (Pub I. No. 101-336) including Title II of that Act, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.

13. Successors in Interest

The provisions of this contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and approved assigns.

14. Severability

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

15. Waiver

The failure of the City to enforce any provision of this contract shall not constitute a waiver by the City of that or any other provision.

16. Errors

The Contractor shall perform such additional work as may be necessary to correct errors in the work required under this contract without undue delays and without additional cost.

17. Governing Law

The provisions of this contract shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this contract must be brought in the appropriate court in Multnomah County Oregon.

18. Amendments

All changes to this contract, including changes to the scope of work and contract amount, must be made by written amendment and approved by the Purchasing Agent to be valid. Any amendment that increases the original contract amount by more than 25% must be approved by the City Council to be valid.

19. Business License

The Contractor shall obtain a City of Portland business license as required by PCC 7.02 prior to beginning work under this Agreement. The Contractor shall provide a business license number in the space provided on page one of this Agreement. Additionally, the Contractor shall pay all fees or taxes due under the Business License Law and the Multnomah County Business Income Tax (MCC Chapter 12) during the full term of this contract. Failure to be in compliance may result in payments due under this contract to be withheld to satisfy amount due under the Business License Law and the Multnomah County Business Income Tax Law.

20. Prohibited Interest

(a) No City officer or employee during his or her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

(b) No City officer or employee who participated in the award of this Agreement shall be employed by the Contractor during the period of the Agreement.

21. Payment to Vendors and Subcontractors

The Contractor shall timely pay all suppliers, lessors and contractors providing it services, materials or equipment for carrying out its obligations under this Agreement. The Contractor shall not take or fail to take any action in a manner that causes the City or any materials that the Contractor provides hereunder to be subject to any claim or lien of any person without the City's prior written consent.

Merger Clause

THIS CONTRACT AND ATTACHED EXHIBITS CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION, OR CHANGE OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION, OR CHANGE IF MADE, SHALL BE EFFECTIVE ONLY IN SPECIFIC INSTANCES AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. CONTRACTOR, BY THE SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE OR SHE HAS READ THIS CONTRACT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

OPTIONAL PROVISIONS (selected by City Project Manager)

22. Arbitration: / / Not Applicable / / Applicable (consult with City Attorney's Office before finalizing as applicable)

(a) Any dispute arising out of or in connection with this Agreement, which is not settled by mutual agreement of the Contractor and the City within sixty (60) days of notification in writing by either party, shall be submitted to an arbitrator mutually agreed upon by the parties. In the event the parties cannot agree on the arbitrator, then the arbitrator shall be appointed by the Presiding Judge (Civil) of the Circuit Court of the State of Oregon for the County of Multnomah. The arbitrator shall be selected within thirty (30) days from the expiration of the sixty (60) day period following notification of the dispute. The arbitration, and any litigation arising out of or in connection with this Agreement, shall be conducted in Portland, Oregon, shall be governed by the laws of the State of Oregon, and shall be as speedy as reasonably possible. The applicable arbitration rules for the Multnomah County courts shall apply unless the parties agree in writing to other rules. The arbitrator shall render a decision within forty-five (45) days of the first meeting with the Contractor and the City. Insofar as the Contractor and the City legally may do so, they agree to be bound by the decision of the arbitrator.

(b) Notwithstanding any dispute under this Agreement, whether before or during arbitration, the Contractor shall continue to perform its work pending resolution of a dispute, and the City shall make payments as required by the Agreement for undisputed portions of work.

23. Progress Reports: / / Applicable / / Not Applicable

The Contractor shall provide monthly progress reports to the Project Manager. If applicable, Exhibit A should list what information the Contractor must include in monthly progress reports.

24. Contractor's Personnel: / / Applicable / / Not Applicable

The Contractor shall assign the following personnel to do the work in the capacities designated: If applicable, list selected personnel in Exhibit A. The Contractor shall not change personnel assignments without the prior written consent of the City.

25. Subcontractors: / / Applicable / / Not Applicable

The Contractor shall assign the following subcontractors to perform work in the capacities designated: If applicable, list selected subcontractors in Exhibit A. The Contractor shall not change subcontractor assignments without the prior written consent of the City.

**AGREEMENT FOR PROFESSIONAL, TECHNICAL, OR EXPERT SERVICES
EXHIBIT A**

**Statement of Work
and
Payment Schedule**

SCOPE OF WORK

The Contractor agrees to perform the following services with an awareness of the diverse communities being served: management, coordination, and implementation of all elements relating to the provision of bicycle and pedestrian classroom education; multimodal education and encouragement activities for elementary school students and related adults (parents, caregivers, faculty); bicycle fleet management and maintenance; multimodal individualized marketing production and information delivery for children and related adults (parents, caregivers, faculty); volunteer recruitment, management, and coordination, promotion of evaluation components and events/activities; service as a liaison for the City of Portland Safer Routes to School program; and safer routes mapping recommendations for new schools.

SERVICES TO BE PERFORMED

1. Provide school-based Bicycle and Pedestrian Safety Education/Training schedule management, confirmation, coordination, and instruction per SR2S school, for the 25 schools currently participating in the SR2S program.
2. Respond to returned order forms that are mailed to all SR2S SmartTrips school-based families and distributed to school faculty for all 25 designated SR2S schools and up to 50 additional elementary or K-8 Portland schools. A response means processing and tracking each order on City provided software, materials compilation, delivery, and home-based outreach.
3. Conduct five (5) or more activities (in which families and their students have an opportunity to engage in biking, walking, or other environmentally-friendly modes of transportation) at each of the 25 designated SR2S schools. An activity can include multiple schools. Full staff participation, as possible, at Back-to-School/Parent Night and school-wide celebration events at each of the 25 SR2S schools.
4. Provide volunteer recruitment, training, and coordination for all contracted activities. Ambassadors, as appropriate, will collect names of potential volunteers and pass this information forward to City staff.
5. Manage bicycle fleet (230 bicycles): coordination of bicycle deliveries to and from schools, scheduling of bicycle transfers to and from schools and maintenance of the fleet.
6. Promote evaluation components utilizing methods to remind faculty of evaluation activity schedules (such as posting information in each classroom at the 25 SR2S schools).
7. Supervise, train and coordinate SR2S Pedestrian/Bicycle Safety Education Ambassadors and SmartTrips production, delivery, and outreach/ activity employees (see #s 1 & 2 above) and volunteers (see # 4 above).
8. Provide monthly reports per school that include: participant and volunteer participation numbers; education and activity event documentation (including photographs and student photo releases); and pre-notification of upcoming events/activities.
9. The Ambassador Support position will work to recommend safer walk and bike routes for up to 25 additional schools upon request from the school community. This recommendation will be submitted to City staff.
10. Attend meetings as negotiated.

The following will be required for all Contractor staff working on this contract:

- Background checks that meet the needs of the school districts being served
- Attendance at an "I Share the Road" Safety Class (provided by the City of Portland partnership)
- Training on the Bicycle and Pedestrian education curriculum program (provided by the contractor)
- Attendance at Diversity Training sessions (provided by the City of Portland partnership)

The following will be required for all Contractor staff utilizing a City of Portland vehicle:

- A valid State of Oregon driver's license and a copy of the staff's DMV driving record
- City of Portland Defensive Driving training (provided by the City of Portland)

REPORTS AND DELIVERABLES:

- Copies of any and all utilized Pedestrian or Bicycle Safety Education curriculum, training materials, or documents designed or updated utilizing contract funds.
- Documentation of completed and satisfactory Background Checks of Contractor staff and volunteers that are acceptable to each of the school districts served by the SR2S program.
- By the 5th of each month, school-based monthly reports that includes: quantitative and qualitative information on all education and encouragement activities as part of the developed scope of work.
- By the 5th of each month: monthly status report on bicycle fleet school-based deliveries and maintenance as of the end of the previous month.
- By the 5th of each month, a monthly summary of SmartTrip materials distribution and tracking, by school, on PDOT-developed database.
- By the 15th of each month, a Monthly Subconsultant Payment and Utilization Report (reference Part II, Section C.5 of the RFP).

All deliverables, reports, and resulting work products from this contract will become the property of the City of Portland.

CONTRACTOR PERSONNEL

The Contractor shall assign the following personnel to perform the work in the capacities designated:

NAME	ROLE ON PROJECT
Angela Koch	Program Manager
Tom Rousculp	Equipment and Logistics Manager
Leeanne Ferguson	Ambassador
Joel Holly	Ambassador
Carl Larson	Ambassador
Jordan Bailey	Ambassador
Stephanie Noll	Ambassador support
Scott Leiuallen	Volunteer Coordinator

SUBCONTRACTORS

The Contractor shall assign the following subcontractors to perform work in the capacities designated:

NAME	ROLE ON PROJECT
NONE	N/A

The City will enforce all diversity in workforce and Minority, Women and Emerging Small Business (M/W/ESB) subcontracting commitments submitted by the Contractor in its Proposal. The Contractor shall submit a Monthly Subconsultant Payment and Utilization Report (Exhibit A1 attached hereto) reporting ALL subcontractors employed in the performance of this agreement.

COMPENSATION AND PAYMENT SCHEDULE

The total amount available for payment of fees for services and deliverables for work shall not exceed \$272,500. The contractor will submit monthly bills to the City which identify the deliverables and services provided in the preceding month. In addition, the contractor may charge for reimbursement of administrative expenses.

Of the total contract amount, direct services, listed below, shall not exceed \$217,764. The monthly compensation will be based on the provision and documentation of services provided at schools:

- Outreach Activities and Mapping Deliverables provided to each SR2S school (5 events @ 25 schools for 2,001.50/school totaling \$50,028)
- The provision of bike safety and pedestrian education (\$138,210 total)
 - Bicycle Safety Education including Bicycle Fleet Maintenance (25 schools @ \$ 4,366.80/school)
 - Pedestrian Safety Education (25 schools @ \$ 1,161.60/ school)
- Delivery of SmartTrips Materials (75 schools @ \$308/ school for a total of \$23,100)
- Expenditure of materials and bike fleet maintenance (\$6,426 total)
 - Bike Fleet Parts (\$1,000)
 - Bike Maintenance (\$2,226)
 - Background checks (\$700)
 - Meetings (\$2,500)

Administrative expenses shall not exceed \$54,736. Reimbursement for administration costs will be prorated in proportion to the percentage of contractor's services completed at the end of each month. Administration expenses will include:

- Contract administration (\$14,186)
- Staff management (\$26,000)
- Reports (\$12,750)
- Meetings with city personnel (\$1,800)

See attached matrix for "Planned Task and Compensation Schedule by Month"

Planned Task and Compensation Schedule by Month

	Outreach Activities and Mapping Deliverables	Bike Safety & Pedestrian Education Provided	SmartTrips Delivery	Maintenance & Materials	Subtotal of Direct Service Costs Per Month	% of Total Contract Expended on Direct Services	Administration and Staff Management Prorated in proportion to % of Contractor's Services Completed	Estimated To Be Billed By Month
	Based on actual costs per deliverable per school including planning	Based on actual costs per deliverable per school		Based on actual expenses incurred				
July	9,031.00	-	-		9,031.00	4%	2,269.98	11,300.98
August	7,020.00	-	4,004.00	3,213.00	14,237.00	7%	3,578.54	17,815.54
September	2,997.00	17,467.20	3,696.00		24,160.20	11%	6,072.78	30,232.98
October		26,200.80	-		26,200.80	12%	6,585.69	32,786.49
November		33,450.00	-		33,450.00	15%	8,407.81	41,857.81
December	4,972.00	2,904.00	-		7,876.00	4%	1,979.67	9,855.67
January	4,972.00	-	5,236.00		10,208.00	5%	2,565.83	12,773.83
February	4,972.00	-	5,236.00		10,208.00	5%	2,565.83	12,773.83
March	4,034.00	14,520.00	4,928.00		23,482.00	11%	5,902.31	29,384.31
April		17,467.20	-	3,213.00	20,680.20	9%	5,198.07	25,878.27
May		26,200.80	-		26,200.80	12%	6,585.69	32,786.49
June	12,030.00	-	-		12,030.00	6%	3,023.80	15,053.80
Budgeted Totals:	50,028.00	138,210.00	23,100.00	6,426.00	217,764.00	100%	54,736.00	272,500.00

AGREEMENTS AND ASSURANCES (ATTACHMENT 'A')

Please refer to Attachment 'A' Agreements and Assurances that is part of this contract.

MONTHLY SUBCONSULTANT PAYMENT AND UTILIZATION REPORT

1. Solicitation No. _____ 2. Contract No. _____ 3. Prime Consultant _____
4. Contract Amount _____ 5. Report Dates: Beginning ___/___/___ Ending Dates ___/___/___ 6. Project Name _____
7. Progress Report No. _____

8 ALL SUBCONSULTANT NAMES APPEARING ON ORIGINAL FIRST-TIER SUBCONSULTANT DISCLOSURE FORM	9 ORIGINAL SUBCONSULTANT AMOUNT (\$)	10 AMENDED SUBCONSULTANT AMOUNT (\$)	11 PAYMENT AMOUNTS AND DATES MADE, FOR MONTH (\$)	12 TOTAL PAYMENTS TO DATE (\$)

SUBCONSULTANTS ADDED AFTER PROJECT AWARD (Must be EEO Certified with the City of Portland)*

13 SUBCONSULTANT NAME (LIST ANY SUBCONSULTANTS NOT LISTED ABOVE)	14 NATURE OF WORK	15 STATUS MBE, WBE OR ESB	16 SUBCONSULTANT AMOUNT	17 PAYMENT AMOUNTS AND DATES MADE, FOR MONTH (\$)	18 TOTAL PAYMENTS TO DATE (\$)

*CHANGES TO CONTRACT: Before replacing, substituting, or adding any subconsultant, please contact the **PTE Compliance Specialist**

Please note: Explanations and additional instructions for completing this report are on the reverse side.

IT IS HEREBY CERTIFIED THAT THE ABOVE LISTED FIRMS HAVE BEEN UTILIZED BY OUR FIRM IN THE AMOUNTS REPRESENTED ABOVE AND THAT THE INFORMATION CONTAINED HEREIN IS COMPLETE AND ACCURATE.

Authorized Signature of Consultant Representative

Date

**Submit with invoice by the 15th of the month to the City's Project Manager AND City of Portland, Bureau of Purchases, Contract Compliance Specialist,
1120 SW 5th Avenue, Room 750, Portland, OR 97204**

INSTRUCTIONS FOR COMPLETING THE MONTHLY SUBCONSULTANT PAYMENT AND UTILIZATION REPORT

1. **SOLICITATION NUMBER:** Enter City of Portland solicitation number.
2. **CONTRACT NUMBER:** Indicates the contract number assigned by the City Auditor for this project.
3. **PRIME CONSULTANT:** Indicate the name of the prime consultant.
4. **PRIME CONTRACT AMOUNT:** Indicate the total dollar amount of the prime contract.
5. **REPORT DATES:** Indicate the beginning and ending dates corresponding to the progress payment period or use calendar month (i.e. 1/1/02 thru 1/31/02); reports should be sequential and not overlap.
6. **PROJECT NAME:** Indicate the project name as indicated on the contract documents.
7. **PROGRESS REPORT NUMBER:** Enter report No.1 for the first report submitted and sequential numbers for reports submitted thereafter.
8. **ALL SUBCONSULTANT NAMES:** List the names of all subconsultants listed on the original First-Tier Subconsultant Disclosure form as submitted at solicitation due date.
9. **ORIGINAL SUBCONTRACT AMOUNT:** Indicate the dollar amount for each subconsultant at time of award.
10. **AMENDED SUBCONSULTANT AMOUNT:** This amount should be the total dollar value (original subconsultant amount plus any additions or deletions) of the subcontract.
11. **PAYMENT AMOUNTS AND DATES MADE, FOR MONTH:** Please list any payment amounts for the month, and the dates the payments were made.
12. **TOTAL PAYMENTS, TO DATE:** This amount should be the total dollar amount paid-to-date to the subconsultant.

SUBCONSULTANTS ADDED AFTER PROJECT WAS AWARDED

13. **SUBCONSULTANT NAME:** Please list any subconsultants not appearing on original disclosure form.
14. **NATURE OF WORK:** Briefly describe subconsultants work (i.e. CAD drafting, environmental testing, etc.).
15. **STATUS:** Indicate the appropriate M/W/ESB status of each subconsultant listed (i.e. MBE, WBE, ESB). **Note:** Designations should be consistent with how firms were certified by the State at time of contract award. Leave blank for non-certified firms.
16. **SUBCONSULTANT AMOUNT:** Indicate the dollar amount of the subcontract.
17. **PAYMENT AMOUNTS AND DATES MADE, FOR MONTH:** Please list any payment amounts for the month, and the dates the payments were made.
18. **TOTAL PAYMENTS, TO DATE:** This amount should be the total dollar amount paid-to-date to the subconsultant

COMMENTS (Include why any payment amounts made to a subconsultant are less than that requested by the subconsultant).

EXHIBIT B
INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT

SECTION A

CONTRACTOR CERTIFICATION I, undersigned, am authorized to act on behalf of entity designated below, hereby certify that entity has current Workers' Compensation Insurance.

Contractor Signature _____ Date _____ Entity _____

If entity does not have Workers' Compensation Insurance, City Project Manager and Contractor complete the remainder of this form.

SECTION B

ORS 670.600 Independent contractor standards. As used in various provisions of ORS Chapters 316, 656, 657, and 701, an individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an "independent contractor" if the standards of this section are met. The contracted work meets the following standards:

1. The individual or business entity providing the labor or services is free from direction and control over the means and manner of providing the labor or services, subject only to the right of the person for whom the labor or services are provided to specify the desired results;
2. The individual or business entity providing labor or services is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local government ordinances for the individual or business entity to conduct the business;
3. The individual or business entity providing labor or services furnishes the tools or equipment necessary for performance of the contracted labor or services;
4. The individual or business entity providing labor or services has the authority to hire and fire employees to perform the labor or services;
5. Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of an annual or periodic retainer.

City Project Manager Signature

Date

SECTION C

Independent contractor certifies he/she meets the following standards:

1. The individual or business entity providing labor or services is registered under ORS Chapter 701, if the individual or business entity provides labor or services for which such registration is required;
2. Federal and state income tax returns in the name of the business or a business Schedule C or form Schedule F as part of the personal income tax return were filed for the previous year if the individual or business entity performed labor or services as an independent contractor in the previous year; and
3. The individual or business entity represents to the public that the labor or services are to be provided by an independently established business. Except when an individual or business entity files a Schedule F as part of the personal income tax returns and the individual or business entity performs farm labor or services that are reportable on Schedule C, an individual or business entity is considered to be engaged in an independently established business when four or more of the following circumstances exist. Contractor check four or more of the following:

- _____ A. The labor or services are primarily carried out at a location that is separate from the residence of an individual who performs the labor or services, or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;
- _____ B. Commercial advertising or business cards as is customary in operating similar businesses are purchased for the business, or the individual or business entity has a trade association membership;
- _____ C. Telephone listing and service are used for the business that is separate from the personal residence listing and service used by an individual who performs the labor or services;
- _____ D. Labor or services are performed only pursuant to written contracts;
- _____ E. Labor or services are performed for two or more different persons within a period of one year; or
- _____ F. The individual or business entity assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

Contractor Signature

Date

EXHIBIT C

INSURANCE (The Project Manager must answer and initial 2, 3, and 4 below)

During the term of this contract Contractor shall maintain in force at its own expense, each insurance noted below:

1. Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers (contractors with one or more employees, unless exempt under ORS 656.027).

-
2. Required and attached or Waived by City Attorney : _____

General Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this contract, and shall provide that City of Portland, and its agents, officers, and employees are Additional Insured but only with respect to the Contractor's services to be provided under this Contract:

3. Required and attached or Waived by City Attorney : _____

Automobile Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage, including coverage for owned, hired, or nonowned vehicles, as applicable:

4. _____ Required and attached or Waived by City Attorney : _____

Professional Liability insurance with a combined single limit of not less than \$1,000,000 per claim, incident, or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this contract. If insurance coverage is provided on a "claims made" basis, the successful Proposer shall acquire a "tail" coverage or continue the same coverage for three years after completion of the contract, provided coverage is available and economically feasible. If such coverage is not available or economically feasible, contractor shall notify City immediately.

5. On all types of insurance. There shall be no cancellation, material change, reduction of limits, or intent not to renew the insurance coverage(s) without 30-days written notice from the Contractor or its insurer(s) to the City.

6. Certificates of insurance. As evidence of the insurance coverages required by this contract, the Contractor shall furnish acceptable insurance certificates to the City at the time contractor returns signed contracts. The certificate will specify all of the parties who are Additional Insured and will include the 30-day cancellation clause that provides that the insurance shall not terminate or be cancelled without 30 days written notice first being given to the City Auditor. Insuring companies or entities are subject to City acceptance. If requested, complete policy copies shall be provided to the City. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

Attachment 'A'

AGREEMENTS AND ASSURANCES

The following Agreements and Assurances apply to all grants funded by the Transportation Safety Division (TSD), Oregon Department of Transportation:

A. General

1. The activity described in this grant is undertaken under the authority of Public Law 109-59, Section 1404 (SAFETEA-LU), and is subject to the administrative regulations established by OMB Circulars A-21, A-87, A-122, A-133, 23 CFR Chapter II, 45 CFR Part 74, 48 CFR Part 31, 49 CFR Part 18, Part 19, and the Highway Safety Grant Funding Policy for NHTSA/FHWA Field-Administered Grants.
2. Any federal funds committed shall be subject to the continuation of funds made available to TSD by the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA) by statute or administrative action. Projects are funded for the federal fiscal year, which is October 1 through September 30 or the state fiscal year, which is July 1 through June 30. Typical grants are for one year but may be continued for up to two additional years. Public information and education projects are continued indefinitely.
3. The grantee shall ensure compliance with 49 CFR Part 18.42 which addresses retention and access requirements for grant-related records. The State, the federal grantor agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any books, documents, papers or other records of the grantee which are pertinent to the grant. These records must be retained for a period of five years starting on the date the grantee submits its final request for reimbursement for this grant.
4. Any obligation of grant funds extends only to those costs incurred by the grantee after "Authorization to Proceed" for the particular part of the program involving costs.
5. Grant funds shall not be used for activities previously carried out with the grantee's own resources (supplanting).
6. Income earned through services conducted through the project should be used to offset the cost of the project and be included in the Budget and Cost Summary.
7. The grantee shall ensure that all grant-related expenditures are included as a part of entity-wide audits conducted in accordance with the Single Audit Act of 1984 (31 USC 7561-7). The grantee shall provide TSD a copy of all Single Audit Reports covering the time period of the grant award as soon as they become available. Federal funds received have the following Catalog of Federal Domestic Assistance (CFDA) numbers: 20.600, State and Community Highway Safety; 20.601, Alcohol Traffic Safety and Drunk Driving Prevention Incentive Grants; 20.602, Occupant Protection Incentive Grants; 20.603, Highway Safety Data Improvements Incentive Grants; 20.604, Safety Incentive Grants for Use of Seat Belts; and, 20.605, Safety Incentive Grants to Prevent Operation of Motor Vehicles by Intoxicated Persons.
8. The grantee shall reimburse TSD within 30 days for any ineligible or unauthorized expenditures as determined by a state or federal review for which grant funds have been claimed and payment received.
9. In accordance with The Anti-Lobbying Act, 18 U.S.C. § 1913, and 49 U.S.C. § 30105:

- The grantee and its contractors are prohibited from the use of appropriated federal funds, directly or indirectly, to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device intended or designed to influence in any manner members of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy or appropriation.

- Additionally, these prohibitions apply to any activity specifically designed to urge a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body.

-The grantee and its contractors must submit disclosure documentation when non-federal funds are used to influence the decisions of federal officials on behalf of specific projects. Signing this Agreement constitutes a certification of compliance with these lobbying restrictions.

-The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such 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 Title 31, USC Section 1352.

- 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.

- The grantee will comply with the provisions of 5 U.S.C. 1501-1508 and implementing regulations of 5 CFR Part 151, concerning "Political Activity of State or Local Offices, or Employees."

10. The grantee, its subcontractors, if any, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656-017, which requires them to provide workers' compensation coverage for all their subject workers.
11. The grantee shall comply with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Dept. of Labor regulations (29 CFR Part 5).
12. The grantee shall make purchases of any equipment, materials, or services pursuant to this Agreement under procedures consistent with those outlined in the Oregon Department of Administrative Services Administrative Rules (Oregon Administrative Rules, Chapter 125, and ORS Chapters 279A, 279B and 279C).
13. Grantee shall defend, save and hold the State of Oregon harmless, including the Oregon Transportation Commission, the Oregon Transportation Safety Committee, the Department of Transportation, the Transportation Safety Division, and their members, officers, agents, and employees from all claims, suits, or actions of whatever nature arising out of the performance of this Agreement, including claims brought by the contractor, or others resulting from grantee's failure to comply with the terms of this Agreement, and excluding claims arising out of the negligent acts or omissions of the State of Oregon, its employees, or representatives. This provision is subject to the limitations, if applicable, set forth in Article XI, Section 10 of the Oregon Constitution and in the Oregon Tort Claims Act, ORS 30.260 to 30.300.

B. Project Director's Responsibilities

The Project Director is responsible for fulfilling this Agreement and establishing and maintaining procedures that will ensure the effective administration of the project objectives. The Project Director shall:

1. Establish or use an accounting system that conforms to generally accepted accounting principles, and ensure that source documents are developed which will reliably account for the funds expended.
2. Maintain copies of job descriptions and resumes of persons hired for all project-related positions which are funded at 0.25 FTE or more.
3. Maintain records showing actual hours utilized in project-related activity by all grant-funded personnel and by all other staff personnel or volunteers whose time is used as in-kind match.
4. Complete a Quarterly Highway Safety Project Report, including a Data Table as provided in the Traffic Safety Grant Application Packet. Each report must be signed by the Project Director or the Designated Alternate, and submitted to TSD by the tenth of the month following the close of each calendar quarter for the duration of the grant period. The Designated Alternate is an individual who is given the authority to sign Quarterly Highway Safety Project Reports for the Project Director, in the event he/she is unable to sign due to circumstances beyond his/her control.
5. Submit a Claim for Reimbursement within 35 days of the end of the calendar quarter in which expenses were incurred, using the form provided by TSD as follows:
 - a. Copies of invoices and/or receipts for all specified items must be submitted to TSD upon request with the Claim for Reimbursement;
 - b. claims may be submitted monthly, and must be submitted at least quarterly; and,
 - c. claims must be signed by the Project Director or the Designated Alternate (duplicated signatures will not be accepted).
6. Prepare a Project Directors Final Evaluation Report in accordance with the Evaluation Plan described in the grant document. The report will be no more than ten pages and will include the following elements:
 - a. A summary of the project including problems addressed, objectives, major activities, and accomplishments as they relate to the objectives;
 - b. a summary of the costs of the project including amount paid by TSD, funded agency, other agencies, and private sources. The amount of volunteer time should be identified;
 - c. discussion of implementation process so that other agencies implementing similar projects can learn from your experiences; What went as planned? What didn't work as expected? What important elements made the project successful or not as successful as expected?
 - d. responses to Evaluation Questions. List each question and answer(refer to Data Table); and,
 - e. completed Data Table.

The Project Director's Final Evaluation Report must be submitted within 35 days following the last day of the grant period.

C. Project Revision

1. Any proposed changes in the project objectives, key project personnel, time period, budget, or mailing address must be requested in writing, and receive approval by TSD. A Grant Adjustment Form will be signed by both TSD and the grantee.
2. Any time extension in the project period must be requested at least six weeks prior to the end of the project period and approved by the federal grantor agency if the end of federal fiscal year is involved.

D. Non-Discrimination Assurance

1. The grantee and its contractors will comply with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act (ADA) of 1990, and as implemented by 49 CFR parts 21 and 27, and with the Executive Order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and supplemented by Department of Labor regulations 41 CFR Part 60, and shall ensure that no person shall on the grounds of race, color, creed, sex, national origin or disability be excluded from participation, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity under this project.
2. The grantee and its contractors shall ensure that employment and procurement of goods and services made in connection with the project will be provided without regard to race, color, national origin or handicap.
3. The grantee and its contractors shall take all necessary affirmative steps in accordance with 49 CFR Part 23 to ensure that minority business enterprises and/or business enterprises owned and controlled by women have the maximum opportunity to compete for and to perform contracts.
4. The grantee and its contractors shall ensure that no otherwise qualified handicapped person shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity related to this grant.
5. The grantee shall ensure that any contracts and subcontracts awarded in excess of \$10,000 shall contain a provision requiring compliance with the standards set forth in paragraphs 1 through 4 of this section.

E. Contracts and Other Service Agreements

1. Any contracts or other service agreements that are entered into by the grantee as part of this project shall be reviewed and approved by TSD to determine whether the work to be accomplished is consistent with the objectives of the project, and whether the provisions of paragraphs 2 through 4 of this section are considered.
2. All contracts awarded by the grantee shall include the provision that any subcontracts include all provisions stated in this section or the provision that no subcontracts shall be awarded.
3. The grantee shall ensure that each contractor adhere to applicable requirements established for the grant and that each contract include provisions for the following:
 - a. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate;

- b. mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163);
 - c. access by the grantee, the state, the federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions. Grantees shall require contractors to maintain all required records for three years after grantees make final payments and all other pending matters are closed;
 - d. notice of grantor agency requirements and regulations pertaining to reporting, requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract, and requirements and regulations pertaining to copyrights and rights in data; and,
 - e. requirements given in Section A. 9-12.
4. Where applicable, grantee's contracts with its contractor(s) shall include the following provisions:
- a. Termination for cause and for convenience by the grantee including the manner by which it will be effected and the basis for the settlement (Contracts in excess of \$10,000);
 - b. Compliance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and supplemented in Dept. of Labor regulations (41 CFR Part 60) (Contracts in excess of \$10,000);
 - c. Compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Dept. of Labor regulations (29 CFR Part 5) (Contracts in excess of \$2,500);
 - d. Bidders, proposers, and applicants must certify that neither they nor their principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal agency or department (Contracts in excess of \$25,000).

F. Travel

1. The grantee shall keep a record of all significant travel. In-state trips outside the grantee's jurisdiction should be summarized on Quarterly Highway Safety Project Reports.
2. All out-of-state travel must be pre-approved by TSD. To receive authorization, the trip must be detailed on the project budget or requested in a grant adjustment. Reports on out-of-state trips shall be summarized on Quarterly Highway Safety Program Report.
3. Reimbursement will only be authorized for travel of persons employed by the grantee in project-related activities unless prior written approval is granted by TSD.

G. Development of Printed or Production Materials

1. The grantee shall provide TSD with draft copies of all materials developed using grant funds. TSD may suggest revisions and must approve production.
2. All brochures; course, workshop and conference announcements; and other materials that are developed and/or printed using grant funds shall include a statement crediting TSD and federal participation.
3. Materials produced through this project shall be provided to TSD for its use and distribution and may not be sold for profit by either the grantee or any other party.

H. Equipment Purchased with Grant Funds

1. A Residual Value Agreement shall be completed and submitted to TSD if grant funds are used in whole or in part to acquire any single item equipment costing \$5,000 or more or at TSD discretion. A copy of the original vendor's invoice indicating quantity, description, manufacturer's identification number and cost of each item will be attached to the signed agreement. All equipment should be identified with a property identification number.
2. All material and equipment purchased shall be produced in the United States in accordance with Section 165 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424; 96 Stat. 2097) unless the Secretary of Transportation has determined under Section 165 that it is appropriate to waive this agreement.
3. Material and equipment shall be used in the program or activity for which it was acquired as long as needed, whether or not the project continues to be supported by grant funds. Ownership of equipment acquired with grant funds shall be vested with the grantee. Costs incurred for maintenance, repairs, updating, or support of such equipment shall be borne by the grantee.
4. If any material or equipment ceases to be used in project activities, the grantee agrees to promptly notify TSD. In such event, TSD may direct the grantee to transfer, return, keep, or otherwise dispose of the equipment.

I. Debarment

The grantee, in accepting this Agreement, certifies that the agency or its officials are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any state or federal agency or department.

J. Termination

1. TSD may terminate this Agreement for convenience in whole or in part whenever:
 - a. The requisite state and/or federal funding becomes unavailable through failure of appropriation or otherwise; or,
 - b. The requisite local funding to continue this project becomes unavailable to grantee; or,
 - c. Both parties agree that continuation of the project would not produce results commensurate with the further expenditure of funds.
2. TSD may, by written notice to grantee, terminate this Agreement for any of the following reasons:

- a. The grantee takes any action pertaining to this Agreement without the approval of TSD and which under the provisions of this agreement would have required the approval of TSD; or,
- b. The commencement, prosecution, or timely completion of the project by grantee is, for any reason, rendered improbable, impossible, or illegal; or,
- c. The grantee is in default under any provision of this Agreement.

K. Conditions of Project Approval

Actions taken by the Oregon Transportation Safety Committee, if any, regarding conditions under which this project is approved are given in the Conditions of Approval. The grantee agrees to follow these conditions in implementing the project.

L. Contract Provisions and Signatures

It is understood and agreed that the grantee shall comply with all federal, state, and local laws, regulations, or ordinances applicable to this agreement and that this Agreement is contingent upon grantee complying with such requirements.

This Agreement shall be executed by those officials authorized to execute this Agreement on the grantee's behalf. In the event grantee's governing body delegates signature of the Agreement, grantee shall attach to this Agreement a copy of the motion or resolution which authorizes said officials to execute this Agreement, and shall also certify its authenticity.

M. The Drug-free Workplace Act of 1988 (49 CFR Part 29 Sub-part F)

The grantee will provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing a drug-free awareness program to inform employees about:
 - a. The dangers of drug abuse in the workplace.
 - b. The grantee's policy of maintaining a drug-free workplace
 - c. Any available drug counseling, rehabilitation, and employee assistance programs.
 - d. The penalties that may be imposed upon employees for drug violations occurring in the workplace.
3. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (1).
4. Notifying the employee in the statement required by paragraph (1) that, as a condition of employment under the grant, the employee under the grant, the employee will:
 - a. Abide by the terms of the statement.
 - b. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
5. Notifying the agency within ten days after receiving notice under subparagraph (4) (b) from an employee or otherwise receiving actual notice of such conviction.
6. Taking one of the following actions, within 30 days of receiving notice under subparagraph (4) (b), with respect to any employee who is not convicted:
 - a. Taking appropriate personnel action against such an employee, up to and including termination.

- b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5), and (6) above.

N. Buy America Act

The grantee will comply with the provisions of the Buy America Act (23 USC 101 Note) which contains the following requirements:

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest; that such materials are not reasonably available and of a satisfactory quality; or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.