



VISION ZERO
zero deaths
zero serious injuries

Montana Department of Transportation

Michael T. Tooley, Director

Steve Bullock, Governor

2701 Prospect
PO Box 201001
Helena MT 59620-1001

Date: March 22, 2018

Subject: **Request for Proposals**
Clark Fork – 1M NW Trout Creek
BH 6-1(142)28
UPN 8022000

To Whom It May Concern:

The Montana Department of Transportation (MDT) is accepting proposals from consulting firms interested in participating in MDT's first Construction Manager/General Contractor (CM/GC) project, including the preparation of the construction plans and specifications for the subject project. One firm will be selected to perform the work specified herein.

Teams may be established as necessary; however, it is expected that the prime consultant will be capable of completing the vast majority of the work, and the proposal must clearly identify the prime for this contract. As a rule, the prime consultant must complete at least 50% of the work for a specific project or assignment unless written exception is given.

Montana professional engineering licensure is required for this work, and must be in-hand at the time your proposal is submitted. If this requirement is not met and clearly identified in the proposal, your proposal will be considered non-responsive.

If your firm is interested, please submit a proposal as described herein.

SCOPE OF WORK

Comprehensive design services for a bridge rehabilitation project of the Clark Fork Bridge, near Trout Creek to increase the long-term viability of the facility. The general intent of the project is to repair/rehabilitate/replace the deck of this structure, due to the deteriorated condition. Primarily due to the narrow width and need to minimize traffic disruption, MDT has elected to deliver this project to construction through the alternative delivery method of Construction Manager/General Contractor (CM/GC). The selected design consultant will be required to provide all of the necessary services needed to work with MDT and a construction Contractor to develop a solution for this structure. Such services include (but are not limited to) survey, structural analysis and design, geotechnical investigation, analysis and design, hydraulics analysis and design, traffic analysis and design, cost estimating (production rate-based construction cost estimate, also known as a “bottom-up estimate”), public involvement, roadway design, R/W design, utilities investigation and analysis, and potentially R/W acquisition. Effective communication skills and an openness to investigating design alternatives will be critical for this project.

MDT’s intention at this time is to develop this project in phases. The project will likely be initially scoped through Alignment & Grade (AGR)-type activities. During this first phase, the design consultant will primarily gather and analyze data, and develop preliminary concepts. As MDT and the selected consultant work through this initial stage, MDT will select a contractor for CM services. Once the Construction Manager (CM) is on board, the contract will be amended to include final design activities. The entire design team (MDT, Design Consultant, CM) will work collaboratively to develop a design solution that maximizes effectiveness and minimizes risk. The selected design consultant will be ultimately responsible for the design solution and will be the Engineer-of-Record.

As described, MDT will select a CM using a separate selection process that uses RFQ/RFP based procedures. Through these procedures, the CM will be informed of the intent of the CM/GC process and made aware of the collaboration that will be necessary during the design of the project. The selected design consultant will be required to effectively communicate and work with the selected CM and MDT throughout the design of the project, including facilitation of Contractor design reviews, participation in estimate calibration meetings, input on risk analysis and management, and support for value engineering studies. The intent is to seek information and best practices from the CM to look at possible solutions for the project. Such information could include: construction means and methods, sequencing, production rates with associated costs, modern equipment availability and costs, availability of materials and other resources, and help in assessment of feasible alternatives. The intent behind this collaboration is to develop and implement an innovative and effective design while still maintaining constructability. The CM/GC concept also allows input from the CM to use the latest advancements in technology in the construction industry.

Collaboration and coordination with the selected CM and MDT will be critical throughout project development, as it will be a challenge to identify constructible solutions to rehabilitate this bridge. Currently, there is not a sufficient detour at the project site so working to determine acceptable closure periods for construction will be a requirement. In addition to the lack of a detour, some other challenges include: length of the crossing and feature being crossed

(waterway), support layout and structural capacity of the existing bridge, the need for more than one type of rehabilitation (reinforced concrete and structural steel superstructures), and the need to address bridge components such as expansion joints and bridge rail. Public involvement and associated outreach to gain buy-in, along with coordination with the affected entities, will be essential.

Evaluating the existing bridge's structural capacity and considering measures to increase this capacity will be necessary. Part of the design will include weighing options as to whether to reduce the anticipated dead loading or increase member capacity, if determined practical. A final bridge rating in AASHTOWare will be required of the selected design consultant.

MDT has identified several key challenges that will be critical for the selected consultant to consider:

- Innovative methods for rehabilitating the structure
- Public involvement during the preconstruction phase, specifically related to impacts to traffic operations during construction
- Communication and collaboration with MDT and the CM through the preconstruction phase

Additional information:

- Preliminary Field Review report
http://www.mdt.mt.gov/other/webdata/external/CDB/RFP_Info/Clark-Fork-Trout-Creek/8022000BRPFR001.PDF
- Scope of Work report
http://www.mdt.mt.gov/other/webdata/external/CDB/RFP_Info/Clark-Fork-Trout-Creek/8022000BRSOW001.PDF
- Scope of Work Approval memo
http://www.mdt.mt.gov/other/webdata/external/CDB/RFP_Info/Clark-Fork-Trout-Creek/8022000BRSOW002.PDF
- All preliminary design files and reports
http://www.mdt.mt.gov/other/webdata/external/CDB/RFP_Info/Clark-Fork-Trout-Creek/8022000PRELIM-FILES.ZIP

LOCATION

The project is located on Hwy 200, in Sanders County, approximately 1-mile northwest of Trout Creek. The project limits are approximately RP 27.92 to RP 28.43. The bridge crosses the Clark Fork River (NBI structure number P00006028+01091).

PROJECT SCHEDULE AND DELIVERABLES

The project schedule will be developed and negotiated prior to executing the contract agreement. At this time, it is anticipated that deliverables will generally follow those described in MDT's Consultant Activity Descriptions (as applicable):

http://www.mdt.mt.gov/other/webdata/external/cdb/ACTIVITY_DESCRIPTIONS/CONSULTANT_DESIGN_2500_MU.PDF

STANDARDS, SPECIFICATIONS, AND POLICIES

Work is expected to follow MDT's various Manuals, Guides, and Policies. These items may be found on MDT's Design Consulting web page at: <http://www.mdt.mt.gov/business/consulting/>.

PROPOSAL SUBMITTAL

Submit **five (5)** copies of the proposal. The correct number of proposals must be submitted in order for your firm to be considered. Clearly label each proposal with the project name identified in the subject line of this RFP. All proposals must be submitted in hard copy format; electronic proposals will not be considered.

The Department must receive the proposals for this RFP no later than 3:00 PM MST, April 18, 2018. Send the proposals to:

Ryan Dahlke, P.E.
Consultant Design Engineer
Montana Department of Transportation
2701 Prospect Avenue
P.O. Box 201001
Helena, MT 59620-1001

Regardless of cause, late proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's responsibility to assure delivery at the specified office by the specified time. Offeror may request the State return late proposals at vendor's expense or the State will dispose of late proposals if requested by the offeror. (See Administrative Rules of Montana (ARM) 2.5.509.). If no request is made, late proposals become the property of the Department. All proposals submitted on time become the property of the Department.

The costs for developing and delivering responses to this solicitation are entirely the responsibility of the offeror. The State is not liable for any expense incurred by the offeror in the preparation and presentation of this submittal.

TENTATIVE RFP/SELECTION SCHEDULE

The anticipated schedule for consultant solicitation and selection for this contract is as follows (subject to change):

March 22, 2018:	RFP released
April 18, 2018:	Proposals due to be submitted to MDT Consultant Design
April 26, 2018:	Proposals reviewed, rated, and ranked by the evaluation committee
May 2, 2018:	Consultant Selection Board meeting to select consultant

There are four (4) members on the evaluation committee for this RFP:

1. MDT Bridge Bureau Design Manager
2. MDT Missoula District Preconstruction Manager
3. MDT Consultant Design Project Manager
4. MDT Alternative Contracting Engineer/Manager

PROPOSAL CONTENTS

The proposal must contain the information listed in this section. The proposal is **limited to fifteen (15) pages**, not including the required Unbound Cover Page, Appendix A, or Unbound References attachment. A single cover jacket/title page is allowed if desired, and will not count in the page limit. Each page is defined as one side of a letter size sheet (no larger than 8 ½” x 11”), minimum font size of 10. Evaluation of information will begin with the first page immediately following the cover jacket/title page, and every page will be counted, in order, from that point forward, including any table of contents or divider pages the firm wishes to include. Once the page limit is reached, any information included thereafter will be removed and not considered or scored. Please organize your proposal in the same order and numbering format as shown below, which will assist MDT in reviewing your proposal:

Unbound Cover Page (1 page)

Include an UNBOUND version of MDT’s standard cover page form, available at the following location:

http://www.mdt.mt.gov/other/webdata/external/cdb/MDT_CDB_002_Proposal_SOQ_Cover_Sheet.pdf

Information presented in the cover page will not be considered in proposal scoring.

Questions

- 1) **Qualifications of Firm:** Provide a discussion of how your firm/team is best qualified to respond to the requirements of this project. Discussion should focus on the requirements for this specific project, particularly:
 - Expertise and experience, as it relates to the work described in the “Scope of Work” section above. Provide examples of previous related project experience as it relates to these services. Of particular interest is your team’s experience using CM/GC, other alternative contracting methods, and bottom-up estimating. Include a discussion on key subconsultant partners’ expertise and experience, if used.
 - Ability and Strategy to meet project schedules, including fast-tracked projects and changing priorities. Response should include a brief discussion on current and projected workload.
 - Compatibility of systems, software, and equipment (i.e. CADD software, word processing software, etc.), and experience with these systems, software, and equipment. The Department’s standard design software is Microstation GEOPAK SS4 with OpenRoads Technology. Please note that MDT is not currently prepared to allow use of Bentley OpenRoads Designer CONNECT edition. Describe your experience using AASHTOWare and include a discussion on any additional support equipment or software you intend to use.

- Quality assurance/quality control procedures.
- 2) **Qualifications of Personnel:** Provide a discussion of the qualifications of the key personnel to be assigned to this project. Discussion should focus on the requirements for this specific project, particularly:
- Expertise, experience, and training of key personnel to be assigned to the project, as it relates to the “Scope of Work” for this project. Provide examples of previous related project experience as it relates to these services. Include a discussion on key subconsultant personnel expertise and experience, if used.
 - Clearly state any professional licensing requirements applicable to this contract.
 - Include an organization chart that indicates the project staff, their area of expertise, registration, and office location(s).

Resumes may be considered as supplemental information for scoring this question.

- 3) **Project Approach:** This project has many challenging aspects, and the development and delivery of a successful project that addresses and mitigates specific project challenges is of utmost interest to MDT. Discuss the challenges identified in the “Scope of Work” section, as well as any other challenges you foresee as they relate to this project and its requirements. Include a discussion on your strategy for addressing these challenges, and your specific experience in implementing the strategies identified.

Appendix A

Resumes

Include brief resumes for the key personnel to be assigned to the contract.

Resumes are limited to one (1) page per person.

Unbound attachment

References

Submit ONE UNBOUND COPY of references that includes a minimum of five (5) separate contracts from the past three (3) years. If applicable, you may submit multiple contracts for a single client. Each contract must pertain to work similar to the proposed scope of services. Include client name, a currently employed primary contact person, an alternative contact person, corresponding valid phone numbers and emails for both contacts, a range of contract value, and a brief description of the work performed. If MDT needs to use these references for the Past Performance Score (as described in the “Evaluation of Proposals” section below) and is unable to contact the required number of references after a reasonable effort, the firm will receive a zero for the missing reference(s).

EVALUATION OF PROPOSALS

All proposals will be evaluated in accordance with the following factors:

- 1) **Qualifications of Firm (50 points possible)**
- 2) **Qualifications of Personnel (50 points possible)**
- 3) **Project Approach (50 points possible)**

Following the review, evaluation, and rating of all proposals, firms will be short-listed for an interview. All firms submitting responsive proposals that achieve a minimum score of 60% (90 out of 150 points possible) will be invited to the interview stage.

INTERVIEW

The Consultant Design Engineer will notify each short-listed Consultant of the time, date and location for the interview. The notification will inform each Consultant of the time limit for the interview. The format of the interview will be two or three (subject to change) predetermined questions that will be given to the consultant at the start of the interview to assess the firm's ability to respond to questions in an impromptu manner. Key personnel from the firm/team are required to participate in the interview. The firm/team is responsible for identifying the key personnel; however, MDT will require the Project Manager to participate in the interview. MDT reserves the right to make exceptions to this requirement in extreme, unforeseen circumstances, if requested by the firm. A maximum of five (5) individuals will be allowed to participate in the interview stage. To protect the integrity of the interview process, no employee or other persons affiliated with your consultant firm/team can attend or receive feedback regarding the presentation by another consultant firm/team. Violation of this condition will be cause for disqualification.

FINAL SCORING

The following defines the final scoring of firms. As described, there are 230 points possible.

- 1) Proposal (150 points possible)**
- 2) Interview (50 possible points)**
- 3) Record of past performance (30 points possible)**

While this RFP solicitation is open, not a short-list solicitation from MDT's Prequalification Roster, the vast majority of this work involves structure design, collaboration, and coordination. Therefore, MDT evaluations specific to the discipline of "Bridges & Structures – Design" will be used if available (as described below):

- a) If two (2) or more MDT evaluations specific to the discipline for this contract ("Bridges & Structures – Design") are available for the consultant, the average score of these evaluations will be used.
- b) If fewer than two (2) MDT evaluations specific to the discipline for this contract are available for the consultant, but there are two (2) or more MDT evaluations are available for other work disciplines, the consultant's current overall past performance score from MDT evaluations will be used.
- c) If there is only one (1) MDT evaluation available for the consultant, the record of past performance score will be an average of the MDT evaluation and one (1) reference check from the references provided in the unbound attachment.
- d) If no MDT evaluations are available, the average score of two (2) reference checks from the references provided in the unbound attachment will be used for this score.

Regardless of partnership/teaming relationships, the past performance of the prime consultant will be the past performance scored that will be used for this score. Past performance will not be revealed or incorporated into a firm's score until the evaluation committee reaches final consensus on the proposal and interview scores.

All Proposals and the Interview will be evaluated using the following basic scoring methodology:

- Outstanding/Exceptional response: 90-100% of the available points
- Good response: 70-90% of the available points
- Average response: 50-70% of the available points
- Poor response: 30-50% of the available points
- Qualifications not clearly met: 0-30% of the available points

Following the review, evaluation, and rating of all proposals, the interview, and incorporation of past performance, the final results will be presented to the Consultant Selection Board at the MDT Headquarters Building. At this time, the Consultant Selection Board will select the most qualified firm(s) to perform the work. Consultant selection is finalized by MDT at the Consultant Selection Board meeting.

INDIRECT COST RATE REQUIREMENTS

Proof of the firm's Indirect Cost Rate (overhead rate) is *not required* with this proposal submittal. However, an Indirect Cost Rate may be required prior to executing a contract according to MDT's Indirect Cost Rate Requirements:

All submitted indirect cost rates must be calculated in accordance with 23 CFR 172 for the cost principles of 48 CFR part 31 and include the required items identified in the MDT Indirect Cost Rate Policy located in Appendix A of the Consultant Services Manual on the MDT Internet website.

http://www.mdt.mt.gov/other/webdata/external/cdb/consultant_manual/consultant-design-manual_combined.pdf

Do not show any actual numerical financial information such as the overhead rate or personnel rates within your proposal. Specific cost information of the firm or team should not be part of the proposal.

AGREEMENT REQUIREMENTS

Contract agreements will generally be administered on a cost plus fixed fee basis. The contracts will have negotiated cost ceilings. If a consulting firm is selected for a specific project and a contract agreement is successfully negotiated, certain financial information will be required as part of the contract agreement. As described in the Indirect Cost Rate Requirements section above, all Consultants and subconsultants must provide the Department with an Indirect Cost Rate (as applicable) audited (when applicable) in accordance with 23 CFR 172 for the cost principles of 48 CFR Part 31 and based on the firm's latest completed fiscal year's costs. Personnel rates, profit, and direct expenses must be clearly outlined and provided to the Department. The standard MDT agreement can be found at the following address:

<http://www.mdt.mt.gov/other/webdata/external/cdb/forms/pdf/std-agreement-shell.pdf>

Do not submit actual numerical financial information within this proposal.

STATE OPTION TO AWARD

While the State has every intention to award a contract resulting from this RFP, issuance of the RFP in no way constitutes a commitment by the State to award and execute a contract. Upon a determination such actions would be in its best interest, the State, in its sole discretion, reserves the right to:

- Cancel or terminate this RFP (18-4-307, MCA);
- Reject any or all proposals received in response to this RFP (ARM 2.5.602);
- Waive any undesirable, inconsequential, or inconsistent provisions of this RFP that would not have significant impact on any proposal (ARM 2.5.505);
- Not award a contract, if it is in the State's best interest not to proceed with contract execution (ARM 2.5.602); or
- If awarded, terminate any contract if the State determines adequate funds are not available (18-4-313, MCA).

SINGLE POINT OF CONTACT

From the date this solicitation is issued until the consultant selection is finalized by MDT at the Consultant Selection Board meeting, offerors are not allowed to communicate with any state staff or officials regarding this solicitation, except at the direction of the Consultant Design Engineer. If unauthorized contact is made and the Consultant Design Engineer determines the context of the contact gives the firm an unfair advantage, the firm will be disqualified from the solicitation. Contact information for the single point of contact is as follows:

Ryan Dahlke
Consultant Design Engineer
Montana Department of Transportation
(406) 444-7292 (Direct Line)
(800) 335-7592 (TTY)
rdahlke@mt.gov

DBE/WBE GOALS

There are no DBE/WBE goals for this work, but firms are strongly encouraged to utilize DBE firms if applicable. A Montana certified DBE list is available and can be found on the MDT web page, <http://www.mdt.mt.gov/business/contracting/civil/dbe.shtml>.

NONDISCRIMINATION COMPLIANCE

Consultants will be subject to Federal and Montana nondiscrimination laws and regulations (see attached notice).

If you have any questions, please contact me at (406) 444-7292 or (406) 444-7696 TDD, or by email at rdahlke@mt.gov. I look forward to receiving your proposal.

Sincerely,

Ryan Dahlke, P.E.
Consultant Design Engineer

Attachment

copies:

Jay Skoog, ACEC Executive Director-Montana Chapter
MDT Consultant Design Bureau file

e-copies:

Dwane Kailey, MDT Chief Engineer
Dustin Rouse, MDT Preconstruction Engineer
Lesly Tribelhorn, MDT Highways Engineer
Lynn Zanto, MDT Planning Division Administrator

Patricia Schwinden, MDT Civil Rights Bureau Chief
Ed Toavs, Missoula District Administrator-MDT
Beth Kappes, MDT Innovative Contracting Engineer
Jeff Olsen, Acting MDT Bridge Engineer

**MDT NONDISCRIMINATION
AND
DISABILITY ACCOMMODATION NOTICE**

Montana Department of Transportation (“MDT”) is committed to conducting all of its business in an environment free from discrimination, harassment, and retaliation. In accordance with State and Federal law MDT prohibits any and all discrimination and protections are all inclusive (hereafter “protected classes”) by its employees or anyone with whom MDT does business:

Federal protected classes

Race, color, national origin, sex, sexual orientation, gender identity, age, disability, & Limited English Proficiency

State protected classes

Race, color, national origin, parental/marital status pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, religion/creed, social origin or condition, genetic information, sex, sexual orientation, gender identification or expression, national origin, ancestry, age, disability mental or physical, political or religious affiliations or ideas, military service or veteran status

For the duration of this contract/agreement, the PARTY agrees as follows:

(1) Compliance with Regulations: The PARTY (hereinafter includes consultant) will comply with all Acts and Regulations of the United States and the State of Montana relative to Non-Discrimination in Federally and State-assisted programs of the U.S. Department of Transportation and the State of Montana, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

(2) Non-discrimination:

- a. The PARTY, with regard to the work performed by it during the contract, will not discriminate, directly or indirectly, on the grounds of any of the protected classes in the selection and retention of subcontractors, including procurements of materials and leases of equipment, employment, and all other activities being performed under this contract/agreement.
- b. PARTY will provide notice to its employees and the members of the public that it serves that will include the following:
 - i. Statement that PARTY does not discriminate on the grounds of any protected classes.
 - ii. Statement that PARTY will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
 - iii. Contact information for PARTY’s representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.

- iv. Information on how to request information in alternative accessible formats.
- c. In accordance with Mont. Code Ann. § 49-3-207, PARTY will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that PARTY does not discriminate on the grounds of any protected class.

(3) Participation by Disadvantaged Business Enterprises (DBEs):

- a. If the PARTY receives federal financial assistance as part of this contract/agreement, the PARTY will make all reasonable efforts to utilize DBE firms certified by MDT for its subcontracting services. The list of all currently certified DBE firms is located on the MDT website at mdt.mt.gov/business/contracting/civil/dbe.shtml
- b. By signing this agreement the PARTY assures that:

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

- c. PARTY must include the above assurance in each contract/agreement the PARTY enters.

(4) Solicitation for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation, made by the PARTY for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the PARTY of the PARTY's obligation under this contract/agreement and all Acts and Regulations of the United States and the State of Montana related to Non-Discrimination.

(5) Information and Reports: The PARTY will provide all information and reports required by the Acts, Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by MDT or relevant US DOT Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the PARTY will so certify to MDT or relevant US DOT Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(6) Sanctions for Noncompliance: In the event of a PARTY's noncompliance with the Non-discrimination provisions of this contract/agreement, MDT will impose such sanctions as it or the relevant US DOT Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the PARTY under the contract/agreement until the PARTY complies; and/or
- b. Cancelling, terminating, or suspending the contract/agreement, in whole or in part.

(7) Pertinent Non-Discrimination Authorities:

During the performance of this contract/agreement, the PARTY, for itself, its assignees, and successor in interest, agrees to comply with the following non-discrimination statues and authorities; including but not limited to:

Federal

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airways Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).
- Executive Order 13672 prohibits discrimination in the civilian federal workforce on the basis of gender identity and in hiring by federal contractors on the basis of both sexual orientation and gender identity.

State

- Mont. Code Ann. § 49-3-205 Governmental services;
- Mont. Code Ann. § 49-3-206 Distribution of governmental funds;
- Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

(8) Incorporation of Provisions: The PARTY will include the provisions of paragraph one through seven in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and/or directives issued pursuant thereto. The PARTY will take action with respect to any subcontract or procurement as MDT or the relevant US DOT Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the PARTY becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the PARTY may request MDT to enter into any litigation to protect the interests of MDT. In addition, the PARTY may request the United States to enter into the litigation to protect the interests of the United States.