Date: October 29, 2019

Subject: Request for Proposals
Bridge Non-Destructive Testing Term Contract 2020-2021

To Whom It May Concern:

The Montana Department of Transportation is accepting proposals from consulting firms interested in a term contract for performing Non-Destructive Testing (NDT) bridge inspection services at various locations throughout Montana. At this time, 43 bridges in Montana require NDT inspections for pin-and-hanger assemblies.

MDT intends to establish a term contract to utilize consultants on an "as-needed" basis for the work described herein. At this time, the intention is to award one agreement that will be approximately $275,000, for a two-year period from January 2020 through December 2021. MDT reserves the right to revise the number of term contracts, the contract values, or contract timeframes, depending on the responses received. Extension(s) of contracts, by mutual agreement of both parties, may be made at one (1) year intervals, or any interval that is advantageous to MDT. Contracts, including any renewals, may not exceed a total of five (5) years.

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. As a rule, the prime consultant must complete at least 50% of the work for a specific task 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

1) General
   A. Consultant will provide the necessary personnel, tools, and expertise to complete accurate and consistent NDT bridge inspections on in-service pin-and-hanger assemblies and other steel members as required.
   B. MDT will provide traffic control and under bridge inspection trucks (UBIT) to allow consultant to access NDT testing locations.
   C. Consultant will ensure accurate and consistent defect identification results through:
      - Properly calibrated testing equipment
      - Inspection processes that are both proven and well documented

2) Personnel
   A. Montana P.E.
      Consultant will provide a professional engineer licensed in the state of Montana to provide oversight and assurance of inspection quality. Professional engineer will oversee quality control, the inspection methods, data upload, and is required to seal each inspection report.
   B. Bridge Inspection Team Leader.
      Designate one member of the inspection team as the Bridge Inspection Team Leader. The Bridge Inspection Team Leader must meet one of the following qualifications:
      - Be a licensed professional engineer and have completed a comprehensive training course based on the Bridge Inspector's Reference Manual, published by FHWA, and have experience in both NBI and Element Level inspection.
      - Have a minimum of 5 years of experience in bridge inspection assignments in a responsible capacity including both NBI and Element Level inspection and have completed a comprehensive training course based on the Bridge Inspector's Reference Manual, published by FHWA.
      - Be certified as a Level III or IV Bridge Safety Inspector under the National Society of Professional Engineer's program for National Certification in Engineering Technologies (NICET) and have successfully completed an FHWA approved comprehensive bridge inspection training course.
      - Have a bachelor's degree in engineering from a college or university accredited by or determined as substantially equivalent by the Accreditation Board for Engineering and Technology; have successfully passed the National Council of Examiners for Engineering and Surveying Fundamentals of Engineering examination; have at least two years of bridge inspection experience; and have successfully completed an FHWA approved comprehensive bridge inspection training course.
      - Have an associate's degree in engineering or engineering technology from a college or university accredited by or determined as substantially equivalent by the Accreditation Board for Engineering and Technology; have four years of bridge inspection experience; and have successfully completed an FHWA approved comprehensive bridge inspection training course.
C. Non-Destructive Testing (NDT) Personnel.
NDT personnel must be qualified in accordance with American Society of
Nondestructive Testing (ASNT) Recommended practice #SNT-TC-1A as prescribed
by 2015 edition of AWS D1.5. Bridge Inspection Team Leader will meet the
standards of ANSI/ASNT CP-189-2016 for a minimum of level II certification.

D. Consultant must submit all documentation proving the team members are qualified
prior to receiving a term assignment notice to proceed.

3) Coordination and Scheduling:
   A. The consultant will coordinate the inspection schedule, under bridge inspection truck
      (UBIT), and all necessary traffic control with MDT.
   B. MDT will provide a district bridge inspector to operate the UBIT bucket for the
      consultant.
   C. MDT District Bridge Inspection Coordinators will be responsible to coordinate with
      the railroads when bridge inspection involves railroad right-of-way. MDT will directly
      pay for all railroad traffic control costs.
   D. Consultant will provide a tentative inspection schedule to MDT contract manager 30
      calendar days prior to performing inspections.

4) Bridge Inspection:
   A. Consultant will perform bridge inspections in accordance with:
      • OSHA safety standards
      • National Bridge Inspection Standards (NBIS)
      • MDT’s Bridge Inspection and Rating Manual
      • FHWA’s Bridge Inspector’s Reference Manual
      • Manual for Bridge Element Inspection Second Edition, 2019
   B. NDT inspections require submission and approval of a bridge specific NDT Inspection
      Procedure to the MDT contract manager. The NDT Inspection Procedure is required to
      be submitted 45 calendar days prior to performing inspections. Consultant may submit
      ultrasonic inspection procedures and calibration requirements that differ from what is
      required in the MDT’s Bridge Inspection and Rating Manual for approval by MDT.
      MDT understands that some of the procedures and calibration requirements in MDT’s
      Bridge Inspection and Rating Manual may not apply to current NDT methods or
      equipment.
   C. Consultant will immediately notify MDT of any structural deficiencies or indications
      that may affect the structural stability of the bridge or the safety of the traveling
      public. MDT will provide a call down list specific to each term assignment.
   D. Consultant will use clear and concise photographs, sketches, measurements, and notes
      to accurately and consistently document the condition and characteristics of each
      bridge inspected.
   E. Consultant will complete and upload all relevant documents in SMS under Inspection
      Documents within 75 days of completion of the fieldwork. All inspection data
      including but not limited to element level defects, notes, photos, and attribute data
      changes will be recorded in SMS, and the final inspection report will be routed to the
      MDT contract manager in Final status within 85 days of inspection.
5) Quality Control Plan:
   A. Consultant will provide a quality control plan to MDT contract manager 45 calendar
days prior to performing inspections. Quality control plan will document the process
and procedures that will be completed to ensure:
   - Pre-inspection deliverables meet contract requirements
   - Coordination with MDT personnel, and county bridge owners
   - Bridge inspections are accurate and consistent
   - Inspection reports clearly and concisely communicate the bridge inspection
     observations.
   - All bridge inspection deliverables are completed within timelines stated in
     contract.

6) Data Entry:
   A. Enter all applicable NDT inspection data, photos, and documents into the MDT
   Structure Management System (SMS). The consultant will be required to obtain E-
   Pass credentials through MDT and the Montana Department of Administration. MDT
   staff will assist with this process. Training on SMS use will be provided through
   online services or written tutorials as needed.

LOCATION
Various – Statewide

PROJECT/TASK SCHEDULE AND DELIVERABLES
The schedule will be developed and negotiated separately for each individual term/task
assignment. 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/CONSULTA
NT_DESIGN_2500_MU.PDF

STANDARDS, SPECIFICATIONS, AND POLICIES
Work is expected to follow MDT’s various Manuals, Guides, and Policies. These items may be
A special note on the Bridge Inspection and Load Rating Manual: Portions of this Manual,
specifically some of the non-destructive testing procedures are out-of-date and being evaluated
for updates/rescission. Until such updates are completed, the Consultant must develop and
present procedures for review and comment, as further described in section 4)B of the Scope of
Work section above.
**PROPOSAL SUBMITTAL**

Submit one (1) electronic version (Adobe® PDF format) of the proposal. Hard copy proposals will not be accepted.

Submit the electronic version by uploading to the State of Montana File Transfer Service (ePass) site, which can be accessed at this link: [https://transfer.mt.gov](https://transfer.mt.gov). To upload to ePass, an account must be created unless the person who is uploading already has an account. Uploading instructions can be accessed at [https://transfer.mt.gov/Home/Instructions](https://transfer.mt.gov/Home/Instructions). When your proposal has been uploaded, the ePass system will prompt you for an email. Please send this email of your uploaded proposal to the following individuals:

- Sheryl Tangen: stangen@mt.gov
- Ryan Dahlke: rdahlke@mt.gov
- Ross Tervo: rtervo@mt.gov

The Department must receive the proposals for this RFP no later than 3:00 PM MST, November 18, 2019.

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):

- October 29, 2019: RFP released
- November 18, 2019: Proposals due to be submitted to MDT Consultant Design
- November 26, 2019: Proposals reviewed, rated, and ranked by the evaluation committee
- December 4, 2019: Consultant Selection Board meeting to select consultant

There are three (3) members on the evaluation committee for this RFP (subject to change):

1. MDT Bridge Bureau Management Supervisor
2. MDT Bridge Bureau Management Engineering Specialist
3. MDT Materials Bureau Steel Fabrication Specialist
PROPOSAL CONTENTS

The proposal must contain the information listed in this section. The proposal is limited to fifteen (15) pages, not including the required Appendices. 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:

Questions

1) Team Qualifications
   Provide a discussion on how the team you propose to use for this contract (including subconsultants, if used) is best qualified to respond to the requirements of this contract. Discussion should focus on the requirements for this specific contract, particularly your team’s expertise and experience, as it relates to the work described in the “Scope of Work” section above. Provide examples of previous related experience as it relates to these services. Identify professional licensure of staff that satisfy the requirements for this contract. Include an organization chart that indicates the staff identified for this contract, their area of expertise, registration, and office location(s). Also briefly discuss your compatibility of systems, software, and equipment (i.e. CADD software, word processing software, etc.), and experience with these systems, software, and equipment. Describe any special equipment or software you intend to use. Resumes may be considered as supplemental information for scoring this question.

2) Approach to Task Assignments
   Transportation work has many challenging aspects, and the development and delivery of a successful work product that addresses and mitigates specific challenges is of utmost interest to MDT. Discuss the challenges you foresee as they relate to this type of work, your strategy for addressing these challenges, and your specific experience in implementing the strategies identified. Describe your quality assurance/quality control process. Include a discussion on the current and projected workload of key personnel and the effects that workload would have on your ability to successfully complete work under this contract. Provide a discussion on your overall strategy for delivering work in a timely manner, including fast-tracked or emergency tasks and changing priorities.

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.

Appendix B: Cover Page Form
   Include a completed version of MDT’s standard cover page form, available at the following location:
Information presented in the cover page form will not be considered in proposal scoring.

Appendix C: References
Submit 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) Team Qualifications (100 points possible)
2) Approach to Task Assignments (50 points possible)
3) Record of past performance (30 points possible)
   a) If two (2) or more MDT evaluations specific to the discipline for this contract 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.

All Proposals will be evaluated using the following basic scoring methodology:
   o Outstanding/Exceptional response: 90-100% of the available points
   o Good response: 70-90% of the available points
   o Average response: 50-70% of the available points
   o Poor response: 30-50% of the available points
   o Qualifications not clearly met: 0-30% of the available points

Following the review, evaluation, and rating of all proposals, 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) for TERM CONTRACT(S). The Board may consider any proposal scoring within 2% of another proposal as equally qualified and take
into account its knowledge of the firms’ workload, past performance, and familiarity with the specific work to be performed in selecting the most-qualified consultant(s).

**SELECTION OF CONSULTANTS FOR TASK ASSIGNMENTS**

If multiple consultants are selected and multiple term contracts are awarded, task or work orders (term assignments) will be awarded through an additional qualifications-based selection procedure. This selection procedure will be comprised of selecting a firm in accordance with the following weighted factors:

1) **Qualifications for specific Task Assignment (60 points possible)**
   a) Using the proposals submitted in response to this RFP and work performed with MDT since the submittal of this proposal: an evaluation of the consultant’s qualifications as related to the specific knowledge, skills, and abilities required for the individual task assignment, including familiarity with the region in which the task assignment is located. Firm office location is not the determining factor for this score. (50 points possible)
   b) As relating to this type of work, the firm’s current workload and amount of recent work with MDT. (10 points possible)

**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.


*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 contract 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/General-Terms-and-Conditions.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)
rdahlke@mt.gov

DBE GOALS
There are no DBE 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 titled “MDT NONDISCRIMINATION AND DISABILITY ACCOMMODATION NOTICE”).

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

Sincerely,

Ryan Dahlke, P.E.
Consultant Design Engineer

Attachment

copy: MDT Consultant Design Bureau file

e-copies:
   Jay Skoog, ACEC Executive Director-Montana Chapter  Patricia Schwinden, MDT Civil Rights Bureau Chief
   Dwane Kailey, MDT Chief Engineer  Stephanie Brandenberger, MDT Bridge Engineer
   Dustin Rouse, MDT Preconstruction Engineer  Amanda Jackson, MDT Bridge Management Engineer
   James Combs, MDT Highways Engineer
   Lynn Zanto, MDT Planning Division Administrator
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);


- 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.