1. **Application**. These PO terms apply to federally funded POs for Construction projects. They equally apply to contracts referenced on the face of the PO. The PO and the referenced Contract are used interchangeably.
2. **Flow Down.** The Contractor understands and agrees that when Flow Down is required, Contractor shall ensure they apply to all subcontracts at every tier.
3. **Incorporation of Federal Transit Administration (“FTA”) Terms**. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any MTS request which would cause MTS to be in violation of the FTA terms and conditions. The preceding provisions include terms required under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200 as amended by 2 CFR § 1201). All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Notwithstanding anything to the contrary, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this PO. Contractor acknowledges that changes in federal law, regulation, other requirements, or guidance will become part of the PO by automatic amendment thereto.
4. **Notice To Third Party Participants re Changes to Federal Requirements**. Contractor acknowledges that applicable federal requirements may change without notice due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient’s Underlying Agreement, including any information incorporated by reference and made part of that Underlying Agreement, and those changes will apply to Contractor and all lower tiers. Contractor agrees to flow down this provision to all tiers.
5. **No Federal Government Commitment or Liability to Third Parties**.MTS andContractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this PO and shall not be subject to any obligations or liabilities to MTS, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying PO. The parties further agree that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions. Contractor agrees to flow down this provision to all tiers.
6. **Civil Rights Laws and Regulations**.

The following Federal Civil Rights laws and regulations apply to this PO.

Contractor and any subcontractor agree to comply with all the requirements prohibiting discrimination on the basis of race, color, or national origin of the Title VI of the Civil Rights Action of 1964, as amended 52 U.S.C 2000d, and U.S. DOT regulation “Nondiscrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of the Title VI of the Civil rights Act, “49 C.F. R. Part 21 and any implementing requirement FTA may issue.

**1. Federal Equal Employment Opportunity (“EEO”) Requirements.** Including, but not limited to:

1. **Nondiscrimination in Federal Public Transportation Programs**, 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chpt 53, prohibiting discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
2. **Prohibition against Employment Discrimination**. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and EO No. 11246, “Equal Employment Opportunity,” Sept 24, 1965, as amended, prohibiting discrimination in employment on the basis of race, color, religion, sex, or national origin.

**2. Nondiscrimination on the Basis of Sex**. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR Part 25 prohibit discrimination on the basis of sex.

**3. Nondiscrimination on the Basis of Age**. The “Age Discrimination Act of 1975,” as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 CFR Part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (“EEOC”) implementing regulations, “Age Discrimination in Employment Act,” 29 CFR Part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

**4. Federal Protections for Individuals with Disabilities**. The Americans with Disabilities Act of 1990, as amended (“ADA”), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

**Civil Rights and Equal Opportunity**.

MTS is an Equal Opportunity Employer and complies with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, MTS complies with the requirements of 49 U.S.C. § 5323(h)(3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Thus, under this PO, Contractor shall at all times comply with the following requirements:

**1. Nondiscrimination**. In accordance with Federal transit law at 49 U.S.C. § 5332, Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

**2. Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal Transit laws at 49 U.S.C. § 5332, Contractor agrees to comply with all applicable EEO requirements of U.S. Department of Labor regulations, “Office of Federal Contract Compliance Programs, EEO, Department of Labor,” 41 CFR Chpt 60, and EO No. 11246, “EEO in Federal Employment,” Sept. 24, 1965, as amended by EO 11375, “Amending EO 11246 Relating to Equal Employment Opportunity, Oct. 13, 1067. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

**3. Age**. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. EEOC Commission regulations, “Age Discrimination in Employment Act,” 29 CFR Part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 CFR Part 90, and Federal transit law at 49 U.S.C. § 5332, Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor agrees to comply with any Implementing requirements FTA may issue.

**4. Disabilities**. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the ADA of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**5. Promoting Free Speech and Religious Liberty**. Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

In addition, the Contractor agrees to comply with any and all applicable requirements issued by the FTA (49 U.S.C. § 5332), DOT, DOJ, U.S. General Services Administration (“GSA”), U.S. EEOC, U.S. FCC, any subsequent amendments or implementing requirements thereto and any other nondiscrimination statute(s) that may apply to the Project.

1. **Special DOL EEO Clause for Construction Projects** **(41 CFR Chpt 60)**. For POs in excess of $10,000, Contractor agrees to comply with all requirements of the DOL EEO Clause for Construction and will ensure non-discrimination and affirmative action in employment practices as follows:

(1) Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) Contractor will comply with all provisions of EO 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) Contractor will furnish all information and reports required by EO 11246 of Sept. 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in EO 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in EO 11246 of Sept. 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of EO 11246 of Sep. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Contractor may request the US to enter into such litigation to protect the interests of the US. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work. Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to EO 11246 of Sept. 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the EO and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the EO. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

1. **Accessibility (42 U.S.C. § 12101 et seq; 36 CFR Part 1192 and 49 CFR Part 38).** Contractor acknowledges that facilities to be used in public transportation service must comply with the ADA, 42 U.S.C. § 12101 et seq.; DOT regulations, “Transportation Services for Individuals with Disabilities,”49 CFR Part 37; and Joint Access Board/DOT regulations, “ADA Accessibility Specifications for Transportation Vehicles.”
2. **Clean Air Act (42 U.S.C. §§ 7401-7671q) and Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387)**. For POs exceeding $150,000, Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Contractor further agrees it will not use any violating facilities; that it will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities;” and it will report violations of use of prohibited facilities to FTA. The Contractor agrees to flow down this provision for subcontracts exceeding $150,000 financed in whole or in part with Federal assistance provided by FTA. 28 CFR § 42.301 et. seq.
3. **Environmental Protections**. Seller agrees to comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future including the Federal Transit Law, 49 U.S.C. § 5323(c)(2) and 23 U.S.C. § 139; National Environmental Policy Act, 42 U.S.C. § 4321, et seq., as limited by 42 U.S.C. § 5159, and CEQ’s implementing regulations, 40 CFR Part 1500–1508; “Environmental Impact and Related Procedures,” 23 CFR Part 771 and 49 CFR Part 622; EO 11514, as amended; “Protection and Enhancement of Environmental Quality,” March 5, 1970, 42 U.S.C. § 4321 note 35 Fed. Reg. 4247; “Interim Guidance on MAP-21 Section 1319, Accelerated Decision-making in Environmental Reviews,” January 14, 2013; “SAFETEA-LU Environmental Review Process, Public Law 109-59,” 71 Fed. Reg. 66576, November 15, 2006; EO 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; “U.S. DOT Order 5610.2(a), “Department of Transportation Updated Environmental Justice Order;” FTA Circular 4703.1, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients;” the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968.
4. **Access to Records and Reports and Sites (49 U.S.C. § 5325(g); 2 CFR §§ 200.334-337)**. Contractor will retain complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third-party Contracts of any type, and supporting materials related to those records. Contractor agrees to comply with the record retention requirements in accordance with 2 CFR § 200.334, maintaining all books, records, accounts and reports required or a period of not less than 3 years after the date of termination or expiration of the PO, except in the event of litigation or settlement of claims arising from the performance, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto. Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this PO in accordance with 2 CFR § 200.337 and to permit FTA and its contractors access to the sites of performance under this PO in accordance with 2 CFR § 200.337. Contractor shall ensure that all financial management systems, internal controls and procurement standards adhere to these regulations. This provision must be flowed down to all tiers.
5. **Cargo Preference (46 U.S.C. § 55305; 46 CFR § 381).** The Contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying PO to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, “on-board” commercial ocean bill-of -lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to MTS (through the Contractor in the case of a subcontractor's bill-of-lading.); and c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel. This provision must be flowed down to all tiers.
6. **Lobbying Restrictions (31 U.S.C. § 3152; 49 CFR Part 20).** Contractor acknowledges that by accepting a POs in excess of $100,000 it certifies, to the best of their knowledge and belief, that: (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions. (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure. Seller agrees to flow down this provision to all tiers and any disclosures must be forwarded from tier-to-tier up to MTS.
7. **Conformance With ITS National Architecture (23 CFR § 940)**. Intelligent Transportation Systems (“ITS”) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Parts 613 & 621). Contractor agrees to flow down this provision to all tiers.
8. **Debarment and Suspension and Voluntary Exclusion-Lower Tier Covered Transactions Requirements (EOs 12549 & 12689, 2 CFR Parts 180 & 1200)**. For POs $25,000 or more at any tier, or as otherwise legally required, Contractor represents that neither Contractor, its principals; its subcontractors or their principals; the sub-recipients (if applicable) or their principals are suspended, debarred, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions, or otherwise disqualified by any federal department or agency from doing business with the Federal Government. Contractor specifically covenants that neither Contractor, its principals, its sub-contractors or their principals, or the sub-recipients (if applicable) or their principals are included on the Excluded Parties List System (“EPLS”) maintained by the GSA. MTS reserves the right to cancel the PO/Contract if the Contractor is a federally debarred contractor or a contractor that is presently identified on the list of parties excluded from federal procurement and non-procurement contracts. This provision must be flowed down to all tiers.
9. **Disadvantaged Business Enterprises ("DBEs") & Prompt Pay (49 CFR Part 26)**.Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. Failure to carry out these requirements is a material breach of this contract, which may result in the termination of this PO or such other remedy as MTS deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the Contractor from future bidding as non-responsible. 49 CFR § 26.13(b). Contractor acknowledges and agrees that if there is a DBE goal, Contractor shall utilize the specific DBEs listed unless it obtains MTS’ prior written consent; and that, unless such consent is provided, Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 CFR § 26.53(f) (1). Contractor must promptly notify MTS, the FTA and the Milwaukee County Office of Economic Inclusion whenever a DBE subcontractor performing work related to this PO is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of MTS, FTA and CBDP. Contractor acknowledges that it must pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment from MTS. 49 CFR § 26.29(a). In addition, Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this PO is satisfactorily completed.
10. **Fly America (49 U.S.C.** **§ 40118 & 41 CFR Parts 301-10; 48 C.F.R. Part 47.4)**. Contractor agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the GSA’s regulations at 41 CFR Parts 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to flow down this provision to all tiers.
11. **Federal Tax Liability and Recent Felony Convictions**. Contractor certifies that neither Contractor, any lower-tier subcontractors or their respective principles have any unpaid Federal tax liability for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; or were convicted of any federal felony criminal violation within the preceding 24 months. Contractor agrees to flow down this provision to all tiers.
12. **Notice to FTA and US DOT Inspector General of Information Related To Fraud, Waste, Abuse, or Other Legal Matters (31 U.S.C. § 3729 et seq).** The FTA has a vested interest in the settlement of any violation of federal law, regulation, or requirement, or any disagreement involving POs or contracts funded with FTA funds. On POs/Contracts in excess of $25,000 if a current or prospective legal matter that may affect the Federal Government emerges, including but not limited to, a default, breach, major dispute, or litigation, the FTA reserves the right to concur in any settlement or compromise. Both MTS and Contractor agree to notify the FTA Chief Counsel and FTA Regional Counsel of any current or prospective legal matter that may affect the federal government, including, not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason. Both MTS and Contractor additionally agree to notify the U.S. DOT Inspector General, the FTA Chief Counsel or Regional Counsel of any potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this PO or another agreement between MTS and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the Recipient. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of MTS or Contractor. Contractor agrees to flow down this provision.
13. **Program Fraud and False or Fraudulent Statements and Related Acts (31 U.S.C. § 3801 et seq; 49 CFR Part 31; 18 U.S.C. § 1001, 49 U.S.C. § 5323)**. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this PO. Upon acceptance of this PO or execution an accompanying contract referenced on the face of this PO, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the PO or the FTA assisted project for which this PO work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a PO connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. Chpt. 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate. It is further agreed that the clauses shall not be modified, except to identify the Subcontractor who will be subject to the provisions. The Contractor agrees to flow down this provision in each subcontract financed in whole or in part with Federal assistance provided by FTA. Contractor agrees to flow down this provision to all tiers.
14. [**Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR §§ 200.216, 200.471)**.](https://www.ecfr.gov/current/title-2/section-200.216) Contractor shall not obligate or expend federal grant funds to: (1) Procure or obtain; (2) Extend or renew a PO to procure or obtain; or (3) Enter into a PO (or extend or renew a PO or contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). (ii) Telecommunications or video surveillance services provided by such entities or using such equipment. (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Recipients, contractors, and subcontractors who enter into covered transactions with a participant at the next lower level, must require that participant to: (a) comply with subpart C of 2 CFR Part 180, as supplemented by 2 C.F.R. part 1200; and (b) pass the requirement to comply with subpart C of 2 CFR Part 180 to each person with whom the participant enters into a covered transaction at the next lower tier.

1. **Safe Operation of Motor Vehicles (EOs 13043 & 13513; US DOT Order 3902.10)**. Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by Contractor or MTS. Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by Contractor, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed pursuant to this PO. The Contractor agrees to flow down this provision to all tiers.
2. **Trafficking in Persons**. Contractor agrees that it and its employees that participate in the PO, may not: (a) Engage in severe forms of trafficking in persons during the period of time that the PO is in effect; (b) Procure a commercial sex act during the period of time that the PO is in effect; or (c) Use forced labor in the performance of the PO or any sub agreements.
3. **Simplified Acquisition Threshold (2 CFR §§ 200.317-200.237)**. POs or contracts for more than the simplified acquisition threshold ($250,000), which is the inflation-adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where Sellers violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

**Violation and Breach of Contract**. For POs in excess of $250,000:

Disputes arising in the performance of this PO that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the MTS. This decision shall be final and conclusive unless within 10 days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to MTS’ authorized representative. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the agencies authorized representative shall be binding upon the Contractor and Contractor shall abide by the decision.

**Performance During Dispute**.Unless otherwise directed by the agencies authorized representative, Contractor shall continue performance under this PO while matters in dispute are being resolved.

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

**Remedies**.Unless this PO provides otherwise, all claims, counterclaims, disputes and other matters in question between MTS’ authorized representative and Contractor arising out of or relating to this PO or a breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State and County in which MTS is located.

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

1. **Termination.** For all POs in excess of $10,000, Contractor acknowledges that MTS has the following termination rights:

**Termination for Convenience**. MTS, by written notice, may terminate this PO, in whole or in part, when it is in MTS’ or the FTA’s interest. If this PO is terminated, MTS shall be liable only for payment under the payment provisions of this PO for services satisfactorily rendered or goods delivered before the effective date of termination.

**Termination for Default (Breach or Cause)**.If Contractor does not deliver supplies in accordance with the PO delivery schedule, or if the PO is for services, the Contractor fails to perform in the manner called for in the PO, or if Contractor fails to comply with any other provisions of the PO, MTS may terminate the PO for default. Termination shall be effected by serving a Notice of Termination on Contractor setting forth the manner in which Contractor is in default. Contractor will be paid only the PO price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the PO. If it is later determined by MTS that Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of Contractor, MTS, after setting up a new delivery of performance schedule, may allow Contractor to continue work, or treat the termination as a Termination for Convenience.

**Opportunity to Cure.** MTS, in its sole discretion may, in the case of a termination for breach or default, allow Contractor 10 days in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to MTS’s satisfaction the breach or default of any of the terms, covenants, or conditions of this PO within 10 days after receipt by Contractor of written notice from MTS setting forth the nature of said breach or default, MTS shall have the right to terminate the PO without any further obligation to the Contractor. Any termination for default shall not in any way operate to preclude MTS from pursuing all available remedies against Contractor and its sureties for breach or default.

**Waiver of Remedies for any Breach**.In the event that MTS elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by MTS shall not limit MTS’ remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract. Contractor agrees to flow down this provision to all tiers.

1. **Buy America Requirements (49 U.S.C. § 5323(j); 49 CFR Part 661; 2 CFR § 200.322)**. For POs in excess of $150,000, Contractor agrees to comply with 49 U.S.C. § 5323(j), 49 CFR Part 661 and 2 CFR § 200.322, when applicable, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the US, unless a waiver has been granted by FTA or the product is subject to a general waiver. When applicable, Bidders/Offerors must submit the appropriate Buy America certification in response to a procurement or will be rejected as nonresponsive. **Transit Asset Management (49 CFR §§ 625 & 630).** Contractor agrees to comply with 49 CFR Part 625 (Transit Asset Management) and 49 CFR Part 630 (National Transit Database).
2. **The Recycled Products (42 U.S.C. § 6962; 40 CFR § 247; EO 12873)**. On POs in excess of $10,000 or where value of the quantity acquired during the preceding fiscal year exceeded $10,000, Seller agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and US EPA, “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 CFR Part 247. The Contractor agrees to flow down this provision to all tiers.
3. **Energy** **Conservation (42 U.S.C. § 6201 et seq; 49 CFR Part 622)**. Contractor agrees to comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, Requirements for Energy Assessments. Contractor agrees to flow down this provision to all tiers.
4. **Bonding Requirements (31 CFR Part 223)**. For construction or facility improvement contracts or subcontracts exceeding $250,000, Contractor understands and agrees to comply with the applicable bond requirements, detailed in the procurement or contract, which are: (1) Bid Bond. Contractor will provide a bid guarantee equivalent to 5% percent of the bid price. The bid guarantee shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid. (2) Performance Bond. Contractor agrees to provide a bond for 100% of the contract price within 10 business days of Contract execution. (3) Payment Bond. Contractor agrees to provide a bond for 100% of the contract price.

Contractor agrees that if part or all of its Bid is withdrawn within 90 days after the bid opening, or if Contractor refuses or is unable to enter into a Contract or furnish an acceptable Performance Bond, Payment Bond, or insurance, it shall forfeit its bid guaranty to make MTS whole and if the Bond is insufficient, shall indemnify MTS to make it whole.

1. **Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701, 3702 and 3704; 29 CFR Part 5).** For all contracts in excess of $250,000 that involve the employment of mechanics or laborers, Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701- 3708), as supplemented by the DOL regulations at 29 CFR Part 5. Under 40 U.S.C. § 3702, Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence. In the event of any violation of the clause set forth herein, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause. The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section. A-40 The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this agreement.
2. **Davis Bacon (40 U.S.C. §§ 3141-3144, and 3146-3148; 29 CFR Part 5) and Copeland Antikickback Acts (18 U.S.C. § 87, 40 U.S.C. § 3145, 29 CFR Part 3).** For all prime construction, alteration or repair contracts in excess of $2,000 awarded by FTA, Contractor shall comply with the Davis-Bacon Act and the Copeland “Anti-Kickback” Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. Part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction.” In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States.” The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. A copy of the current prevailing wage determination is included in the anchoring procurement. Contractor agrees to flow down this provision to all tiers.
3. **Seismic Safety (42 U.S.C. § 7701; 49 CFR Part 41; EO 12699).** Contractor agrees that all work performed on any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety and will certify compliance and adherence to specific codes and guidelines outlined in the DOT Seismic Safety Regulations. Contractor agrees to flow down this provision to all tiers.
4. **Veterans Hiring Preference (5 U.S.C. § 2108).** On Construction POs exceeding $150,000, Contractor agrees to comply with the hiring practice of giving preference, to the extent practicable, to veterans who have the requisite skills and abilities to perform the construction work required. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.