



**PROFESSIONAL SERVICES CONTRACT
BETWEEN
NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS
AND
INSTRUCTOR**

STATE OF TEXAS
COUNTY OF TARRANT

1. This Contract is by and between the North Central Texas Council of Governments (NCTCOG), and **[insert instructor name]** (INSTRUCTOR), and in aid of the **Traffic Incident Management Training Program**. Instructional services to be provided are strategic elements related to traffic incident management and first responder conditions. INSTRUCTOR has elected to participate in one or both of the following training programs: [] First Responder Course and Manager's Course, [] Executive Level Course.
2. The term of this Contract is effective on **[insert date]**, and shall conclude on **[insert date]**, or terminate if the INSTRUCTOR has been inactive for eighteen (18) consecutive months. Dates of instruction are as agreed upon in the Confirmation of Services Form. All services billed hereunder must be rendered prior to the termination date.
3. INSTRUCTORS are required to maintain experience, qualifications, and certifications necessary to serve as an INSTRUCTOR for the Traffic Incident Management Training Program. NCTCOG may, in its sole discretion, remove an INSTRUCTOR that no longer meets the qualifications requirements.
4. It is understood by all parties that payment obligations created by this Contract are conditioned upon the availability of State or Federal funds appropriated or allocated for the payment of such obligations.
5. The INSTRUCTOR has chosen one of the following options in relation to compensation for instructional services provided:
 - _____ INSTRUCTOR elects to receive compensation from NCTCOG. Compensation shall not exceed a maximum reimbursement amount of **[insert \$ amount]**. INSTRUCTOR shall designate requested compensation on the Confirmation of Services Form after each completed training. Compensation may include a direct payment for instructional services at a rate of \$40.00 per hour and reimbursement for eligible expenses incurred such as mileage, toll charges, parking charges and lodging. Documentation to support expenses incurred shall be provided to NCTCOG. If INSTRUCTOR is employed by a public agency, documentation may be required to demonstrate that compensated time and costs are not also being reimbursed from the INSTRUCTOR'S employer.
 - _____ INSTRUCTOR elects to waive compensation from NCTCOG. INSTRUCTOR will not receive compensation from NCTCOG for instructional services or expenses such as mileage, toll charges, parking charges and lodging. INSTRUCTOR may receive compensation of time and expenses from their employer.
6. In the instance where the INSTRUCTOR is employed by a public agency, NCTCOG may contact INSTRUCTOR's employer for approval or documentation.

7. The INSTRUCTOR must sign a Confirmation of Services form to confirm the location, date, and daily rate of services provided; mileage; applicable toll charges; and anticipated payment amount. As applicable, the signed form will serve as a request for payment upon receipt by NCTCOG.
8. If the INSTRUCTOR is waiving compensation from NCTCOG, some expenses incurred directly related to services provided may be tax deductible. NCTCOG recommends INSTRUCTORS to consult their tax preparer for more information.
9. The INSTRUCTOR may request compensation for mileage and applicable toll charges for travel to and from the course location. Compensation will be provided based on the Internal Revenue Service standard mileage rate in effect for the date travel occurred. Mileage will be calculated by the shortest route identified through a Google map point to point driving directions query. A Toll Activity Report must be submitted to NCTCOG for reimbursement of toll expenses.
10. No compensation will be provided for meals.
11. An INSTRUCTOR of a two-day training course who travels 50 miles or more (one way) to the scheduled training location is eligible for lodging (not to exceed one night at the established lodging per diem rate). Receipts must be submitted to NCTCOG.
12. Any handout materials must be submitted to NCTCOG at least one (1) week in advance of the course. Materials must be appropriate to the course and provide recognizable learning points. Additional course material may be provided by NCTCOG.
13. The NCTCOG is responsible for closely monitoring the INSTRUCTOR and the exercise of reasonable care to enforce all terms and conditions of the program. INSTRUCTOR agrees to fully cooperate in the monitoring process.
14. The instructor shall comply with attached Federal and State requirements included in Appendix A - 2 CFR 200 and TxDOT Flowdown Provisions. NCTCOG will keep all project records.
15. Nothing in this Contract guarantees INSTRUCTOR any other employment or opportunity to perform services with or on behalf of the NCTCOG. NCTCOG shall not be responsible or liable for any misrepresentations, acts, errors, or omissions of any kind, negligence, carelessness or other liability or disputes which may arise during the term of this Contract.
16. This Contract creates an Independent Contractor Relationship. NCTCOG shall not control or direct the details, manner or means by which INSTRUCTOR performs services, but may give general direction as to expected outcomes. INSTRUCTOR acknowledges responsibility for performing the training course in a professional manner and in accordance with currently approved industry practices. INSTRUCTOR shall devote such time and effort as is necessary to be prepared to make the presentation as agreed.
17. As applicable, INSTRUCTOR shall pay any taxes arising out of payments made to INSTRUCTOR under this Contract, including any income tax, withholding tax, employment tax, and social security contribution. As applicable, NCTCOG will report to INSTRUCTOR and the Internal Revenue Service all amounts paid to INSTRUCTOR pursuant to this Contract on the appropriate Form 1099 as non-employee compensation.
18. NCTCOG has adopted an Internal Compliance Program to prevent waste, fraud, or abuse. Contractors, agents, and volunteers can report suspected waste, fraud, or abuse at: <https://www.nctcog.org/agency-administration/compliance-portal>. Additional information regarding the Internal Compliance Program is available at the previous web address.
19. INSTRUCTOR is not eligible to participate in or receive any employee benefits of or from NCTCOG.
20. This Contract is not assignable, in whole or in part.

INSTRUCTOR and NCTCOG agree to the terms and conditions of this Contract.

INSTRUCTOR: _____

Printed Name: _____

Date: _____

NCTCOG: _____

Printed Name: _____

Title: _____

Date: _____

Agency Approval
(if applicable) _____

Printed Name/Title _____

Date: _____

Sample Contract

APPENDIX A

2 CFR 200 Clauses &
State and TxDOT Flowdown Provisions

Sample Contract

REQUIRED 2 CFR 200 CLAUSES
Uniform Administrative Requirements, Cost Principles & Audit Requirements
for Federal Awards

1. **Equal Employment Opportunity.** INSTRUCTOR shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, or national origin. INSTRUCTOR shall take affirmative actions to ensure that applicants are employed, and that employees are treated, during their employment, without regard to their race, religion, color, sex, sexual orientation, gender identity, or national origin. Such actions 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.
2. **Davis-Bacon Act.** INSTRUCTOR agrees to comply with all applicable provisions of 40 USC § 3141 – 3148.
3. **Contract Work Hours and Safety Standards.** INSTRUCTOR agrees to comply with all applicable provisions of 40 USC § 3701 – 3708 to the extent this Contract indicates any employment of mechanics or laborers.
4. **Rights to Invention Made Under Contract or Agreement.** INSTRUCTOR agrees to comply with all applicable provisions of 37 CFR Part 401.
5. **Clean Air Act, Federal Water Pollution Control Act, and Energy Policy Conservation Act.** INSTRUCTOR agrees to comply with all applicable provisions of the Clean Air Act under 42 USC § 7401 – 7671, the Energy Federal Water Pollution Control Act 33 USC § 1251 – 1387, and the Energy Policy Conservation Act under 42 USC § 6201.
6. **Debarment/Suspension.** INSTRUCTOR is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. INSTRUCTOR and its subcontractors shall comply with the special provision “Certification Requirements for Recipients of Grants and Cooperative Contracts Regarding Debarments and Suspensions.
7. **Restrictions on Lobbying.** INSTRUCTOR is prohibited from using monies for lobbying purposes; INSTRUCTOR shall comply with the special provision “Restrictions on Lobbying. INSTRUCTOR shall include a statement of compliance with the Lobbying Certification and Disclosure of Lobbying Activities in applicable procurement solicitations. Lobbying Certification and Disclosure of Lobbying Activities shall be completed by subcontractors and included in subcontractor contracts, as applicable.
8. **Procurement of Recovered Materials.** INSTRUCTOR agrees to comply with all applicable provisions of 2 CFR §200.323.
9. **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.** Pursuant to Public Law 115-232, Section 889, and 2 Code of Federal Regulations (CFR) Part 200, including §200.216 and §200.471, NCTCOG is prohibited from using federal funds to procure, contract with entities who use, or extend contracts with entities who use certain telecommunications and video surveillance equipment or services

provided by certain Chinese controlled entities. The INSTRUCTOR agrees that it is not providing NCTCOG with or using telecommunications and video surveillance equipment and services as prohibited by 2 CFR §200.216 and §200.471. By acceptance of this Contract, the INSTRUCTOR certifies compliance with these requirements. The INSTRUCTOR shall notify NCTCOG if the INSTRUCTOR cannot comply with the prohibition during the performance of this Contract.

- 10. Domestic Preference.** As appropriate and to the extent consistent with law, the INSTRUCTOR should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Consistent with §200.322, the following items shall be defined as: “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber. The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- 11. Termination For Convenience.** The INSTRUCTOR may terminate the agreement for its convenience in whole or in part at any time without cause, upon 30 days written notice. Upon termination for convenience, the vendor will be entitled to payment for goods or services satisfactorily performed or delivered.
- 12. Trafficking in Persons.** INSTRUCTOR agrees to comply with all applicable provisions of 2 CFR §175.15. NCTCOG, the INSTRUCTOR, and its subcontractors are prohibited from (i) engaging in severe forms of trafficking in persons during the period of time that the award is in effect; (ii) procure a commercial sex act during the period of time that the award is in effect; (iii) use forced labor in the performance of the award or subawards under the award. The Federal award agency may unilaterally terminate the award, without penalty, if the INSTRUCTOR (i) is determined to have violated an applicable prohibition; (ii) has an employee who is determined by the agency officially authorized to terminate the award to have violated an applicable prohibition of this award term. NCTCOG must notify the federal award agency immediately if any information received from the INSTRUCTOR indicates a violation of the applicable prohibitions.

**REQUIRED STATE CLAUSES
&
FLOW DOWN PROVISIONS FROM
TEXAS DEPARTMENT OF TRANSPORTATION
FUNDING AGREEMENT**

State Clauses

1. If required to make a certification pursuant to Texas Government Code Section 2271.02, the INSTRUCTOR providing goods and services under this Contract confirms that it does not and will not boycott Israel during the term of this Contract.
2. Pursuant to Chapter 2274, Government Code, as enacted by S.B. 13, 87th Legislature, NCTCOG is prohibited from using public funds to contract with entities who boycott energy companies. By signing this Contract, the INSTRUCTOR verifies that it does not discriminate against energy companies and will not discriminate during the term of the Contract.
3. Pursuant to Chapter 2274, Government Code, as enacted by S.B. 19, 87th Legislature, NCTCOG is prohibited from using public funds to contract with entities who discriminate against firearm and ammunition industries. By signing this Contract, the INSTRUCTOR agrees that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the Contract.

Federal Clauses

1.Civil Rights Compliance

- a. Compliance with Regulations: INSTRUCTOR will comply with the Acts and the Regulations relative to Nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this Contract.
- b. Nondiscrimination: INSTRUCTOR, with regard to the work performed by it during the Contract, will not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. INSTRUCTOR will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Contract covers any activity, project, or program set forth in Appendix B of 45 CFR Part 21.
- c. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by INSTRUCTOR for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by INSTRUCTOR of obligations under this Contract and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, sex, or national origin.
- d. Information and Reports: INSTRUCTOR will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of INSTRUCTOR is in the exclusive possession

of another who fails or refuses to furnish this information, INSTRUCTOR will so certify to NCTCOG, the Texas Department of Transportation (“the State”) or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

- e. Sanctions for Noncompliance: In the event of INSTRUCTOR’S noncompliance with the Nondiscrimination provisions of this Contract, NCTCOG will impose such contract sanctions as it the State or the FHWA may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to the INSTRUCTOR under the Contract until the INSTRUCTOR complies and/or
 - ii. cancelling, terminating, or suspending of the Contract, in whole or in part.
- f. Incorporation of Provisions: INSTRUCTOR will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. INSTRUCTOR will take such action with respect to any subcontract or procurement as NCTCOG, the State, or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if INSTRUCTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, INSTRUCTOR may request the State to enter into such litigation to protect the interests of the State. In addition, INSTRUCTOR may request the United States to enter into such litigation to protect the interests of the United States.

4. Disadvantaged Business Enterprise Program Requirements

- a. INSTRUCTOR shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. INSTRUCTOR shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts.
- b. Each sub-award or sub-contract must include the following assurance: *The contractor, sub-recipient, or sub-contractor 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.*

5. Pertinent Non-Discrimination Authorities

During the performance of this contract INSTRUCTOR, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- a. 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.
- b. 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).

- c. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- d. 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.
- e. The Age Discrimination Act of 1975, as amended, (49 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- f. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- g. 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, subrecipients and contractors, whether such programs or activities are Federally funded or not).
- h. 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 C.F.R. parts 37 and 38.
- i. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- j. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination 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.
- k. 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, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- l. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

6. Ineligibility to Receive State Grants or Loans, or Receive Payment on State Contracts

In accordance with Section 231.006 of the Texas Family Code, a child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least twenty-five (25) percent is not eligible to:

- a. Receive payments from state funds under a contract to provide property, materials or services; or
- b. Receive a state-funded grant or loan.

By accepting this Contract, the INSTRUCTOR certifies they comply with this provision.