



Bis-Man Transit Board Meeting

February 22, 2024, 11:30 AM

<https://us02web.zoom.us/j/84874234359>

Call in: +1 312 626 6799; Meeting ID: 848 7423 4359

Welcome & Introductions

Approval of Agenda

Consent Agenda

1. Previous Month's Minutes
 - a. Attachment A – 2024/1/25 Regular Meeting
2. Financial Report
 - a. Attachment B
3. Ride Stats
 - a. Attachment C

Public Comment

New Business

1. Title VI Update Recommendation
 - a. Attachment D
2. Policy and Procedures Update Recommendation
 - a. Attachment E
3. Drug & Alcohol-Free Workplace Policy Recommendation
 - a. Attachment F
4. Procurement Policy Update Recommendation
 - a. Attachment G

Executive Director Report

1. Triennial Update
2. Annual Meeting Update

Operations Report

Other Business

Adjourn



3750 E Rosser Avenue,
Bismarck, ND 58501



info@bisantransit.com



701.258.6817



www.bisantransit.com

- The next Board Meeting will be held on March 28, 2024, at 11:30 am. •



3750 E Rosser Avenue,
Bismarck, ND 58501



info@bisantransit.com



701.258.6817



www.bisantransit.com



A

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

Bis-Man Transit Board Meeting

January 25, 2024, 11:30 AM
Via Zoom & In-person at
3750 E Rosser Ave. Bismarck, ND 58501

Attending:

Lynn Wolf, President

DeNae Kautzmann, Secretary/Treasurer

Lacey Long, Vice President

Royce Schultze

Steve Heydt

Andrew Stromme

Glenn Lauinger

Karel Sovak

Helen Baumgartner

Commissioner Connelly

Not Attending:

Staff:

Deidre Hughes

Mike Mundahl

Taylor Kitzan

Danae Thiery

Craig Thomas

Tom Reisenauer

Guests:

Rachel Lukaszewski

Paulette Jacobsen



3750 E Rosser Avenue,
Bismarck, ND 58501



info@bisantransit.com



701.258.6817



www.bisantransit.com

Meeting was called to order at 11:30 A.M.

Approval of Agenda: Lynn added discussion from Commissioner Connelly to Other Business. Steve moved to approve the agenda with the addition of Commissioner Connelly discussion in Other Business. Royce seconded the motion. Motion carried unanimously.

Consent Agenda: Andrew moved to approve the Consent Agenda. Steve seconded the motion. Motion carried unanimously.

Public Comment: N/A

Unfinished Business

1. Driver Assistance Policy Discussion: Deidre discussed the updated Driver Assistance Policy since the policy was presented at the last Board Meeting. Steve moved to approve the Driver Assistance Policy. Karel seconded the motion. Steve asked if a rider is under suspension, does the rolling calendar period start at first or second violation. Deidre answered that the first violation starts the rolling calendar period, and this policy is handled the same as the No Show Policy. Steve wants the rolling calendar period to be clear to riders. Deidre commented that riders are clear on the No Show Policy and there haven't been questions. Andrew recommended to include a scenario for riders so they can better understand the rolling calendar period. Deidre answered that a scenario can be included in a letter of the policy that is going out to riders and agencies. Commissioner Connelly commented that the top complaints he receives are wait times and time spent on the bus. He said this policy will better improve the system so that won't be happening as often. Motion carried unanimously.

New Business

1. CD Investment Discussion: Deidre explained that the 6-month \$500,000 CD renews on February 3rd. Starion Bank is willing to offer a 12-month CD at 5.25% and to increase our Money Market savings account from 2.5% to 4.25%. DeNae moved to approve the CD renewal for a 12-month CD at 5.25% and increase the rate of the Money Market Savings account at 4.25%. Glenn seconded the motion. Glenn asked Steve if it was a smart decision to stagger investment terms. Steve explained that most users are looking at longer term CD's because rates will be locked in if rates drop in the future. Karel commented that the rate went down in six months already and that staggering the CD's is a good choice. Motion carried unanimously.

Executive Director Report

1. Quarter 1 Projects: Deidre explained that the Audit and NTD Reporting has started, as well as a Triennial Review. Transit staff is working on gathering documents to send. Triennial on-site review is usually done during the Summer. Deidre added that Mike has been working on the DD Council Training. Audit is scheduled for the first week of March. Andrew asked



3750 E Rosser Avenue,
Bismarck, ND 58501



info@bisantransit.com



701.258.6817



www.bisantransit.com

Deidre to keep the cities and the MPO informed of when the DD Council Training will take place so they can promote.

2. 2023 Year Review: Deidre explained the following staff highlights from 2023:
 - Clean audit for fiscal year 2022. Third year in a row with a clean audit for Transit.
 - A new fixed route bus was purchased (2301) in Summer 2023.
 - The Operations contract was rewarded to National Express for three years with the option of three additional one-year terms.
 - Fast fare fareboxes were installed in the fixed route buses in Summer 2023.
 - Transit received a \$5,000 ND Community Grant to fund new fixed route bus signs and installation in the Bismarck/Mandan communities.
 - Transit Development Plan was finalized in November 2023.
 - Granted additional funding from both Bismarck and Mandan to close the future funding gap from projection in the Transit Development Plan.
 - Transition from Transloc to Passio Go AVL software for the fixed route system.
 - Blood Drive in April 2023.
 - Community outreach events such as Wachter Middle School Ride Day, U-Mary Walmart run, BSC Welcome Fair, U-Mary Community Fair, BSC Tabling Event and Touch-A-Truck.
 - Mike completed presentations for Men of Faith Group, Aging Network, and Touchmark, as well as travel training for other organizations.
 - Staff had a Ride Days on the CAT bus.
 - Stuff the Bus for the Abused Adult Resource Center. Many donations were collected.
 - Hosted an FTA Region 8 visit at the Transit Facility.
 - Pilot Program with Homeless Coalition with \$5,000 purchase of passes for other agencies. All monetary donations collected through the “Freezing for a Reason” event will be used to purchase more passes for the same agencies.
 - Fixed Route Ridership exceeded 100,000 trips. Total ridership closed at 188,287 trips.
 - U-Mary had 3,400 trips. This is the highest ridership for U-Mary so far.
 - Black Route was the highest performing route. Top month for ridership was October 2023 with 1,556 rides.
 - Grossed \$10,000 in sales on the TokenTransit mobile ticketing app for fixed route.
 - Goal for advertising was \$90,000 and actual revenue was \$122,097. Mike is already renewing more wraps and is on trend to exceed the annual goal for 2024.

Helen commented that she was struggling with the Passio Go app on Monday and Deidre had a solution to her by Tuesday and it's been very helpful and easier for her to use. She thanked Deidre for helping to make her life more livable.

Steve congratulated staff on a clean audit and the community outreach that was done in 2023.



3750 E Rosser Avenue,
Bismarck, ND 58501



info@bisantransit.com



701.258.6817



www.bisantransit.com

Operations Report: Danae explained that the training class of three fixed route drivers started earlier this month and are doing well. In January, Blue Route was suspended once due to a driver callout. Operations will be at lower risk of suspending routes once new drivers are driving on their own. A paratransit driver training class starts this Monday and once they are trained, that will help with trip capacity. In January, there have only been a handful of trip denials during peak times. This is a significant decrease from three months ago.

Other Business: Commissioner Connelly explained that he has been working with stakeholders in the community on sponsoring committees to collect signatures on a petition to raise funds to fill the public transportation funding gap that Bis-Man Transit is facing come 2026. Commissioner Connelly read both the Bismarck and Mandan petitions that are proposed to be added to the ballot in June 2024. Discussion was had about what percentage would go to Transit, how the money is to be spent, and what the positive and negatives are.

Karel moved to adjourn the meeting. DeNae seconded the motion. Motion carried unanimously.

Meeting adjourned at 12:32 P.M.



3750 E Rosser Avenue,
Bismarck, ND 58501



info@bismantransit.com



701.258.6817



www.bismantransit.com

C

January 2024

MONTHLY REPORT

	Month	YTD	PY Month	PY YTD	% INC/DEC OVR PYM	% INC/DEC OVR PYTD	
RIDERSHIP							
FIXED ROUTE	8,537	8,537	6,950	6,950	22.83%	22.83%	
PARATRANSIT	7,333	7,333	7,962	7,962	-7.90%	-7.90%	
Total	15,870	15,870	14,912	14,912	6.42%	6.42%	
FR AVG. DAILY BOARDINGS	328.35						
DR AVG. DAILY BOARDINGS	236.55						
			Pass./Hour	Pass./Hour	Pass./Hour		
						% INC/DEC	
REVENUE HOURS	Month	YTD	Month	YTD	PY YTD	PY YTD	OVR PYTD
FIXED ROUTE	1,833.55	1,833.55	4.66	4.66	3.76	1,846.0	-0.67%
PARATRANSIT	2,631.88	2,631.88	2.79	2.79	2.86	2,785.6	-5.52%
Total	4,465.43	4,465.43	3.55	3.55	3.2	4,631.6	
			Pass./Mile	Pass./Mile			
							% INC/DEC
REVENUE MILES	Month	YTD	Month	YTD	PY YTD		OVR PYTD
FIXED ROUTE	29,260	29,260	0.29	0.29	28,778		1.67%
PARATRANSIT	36,752.17	36,752.17	0.20	0.20	37,531		-2.07%
Total	66,011.97	66,011.97	0.49	0.49	66,309		-0.45%
ON TIME PERFORMANCE	Month	YTD	PY Month	PY YTD	% INC/DEC OVR PYM		% INC/DEC OVR PYTD
FIXED ROUTE	84.00%	84.00%	86.00%	86.00%	-2.33%		-2.33%
PARATRANSIT	91.67%	91.67%	95.00%	95.00%	-3.51%		-3.51%
RIDERSHIP PER ROUTE							% INC/DEC
ROUTE	Month	YTD		PY Month			0.21358863
BLACK	2012	2012		1667			20.7%
BLUE	754	754		881			-14.4%
GREEN	1961	1961		1386			41.5%
RED	897	897		646			38.9%
ORANGE	1550	1550		1413			9.7%
PURPLE	1363	1363		957			42.4%
RIDERSHIP BY DESTINATION							
	Month	YTD		PY Month			
(Included in 'Ridership	U-Mary	411	411	221			86.0%
Per Route' Numbers)	UTTC	96	96	100			-4.0%
	Bismarck Library	251	251	453			-44.6%
	Mandan Walmart	92	92	71			29.6%
	Mandan Dans	464	464	315			47.3%
ACCIDENTS	Month	Month at Fault	YTD	YTD at Fault			
FIXED ROUTE	1	1	1	1			
PARATRANSIT	4	2	4	2			
SERVICE VEHICLE	0	0	0	0			
COMPLAINTS	Month	YTD					
FIXED ROUTE	1	1					
PARATRANSIT	0	0					
Office Staff	0	0					
COMPLIMENTS	Month	YTD					
FIXED ROUTE	0	0					
PARATRANSIT	0	0					
Office Staff	0	0					



D

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

February 22, 2024

TO: Bis-Man Transit Board of Directors

FROM: Deidre Hughes, Executive Director

SUBJECT: Civil Rights Program Update

BACKGROUND: The current Title VI plan was put in place in July 2021.

DISCUSSION: The FTA requires that the Title VI plan be updated every three years. Updated data was reviewed and entered into the plan in compliance with FTA standards.

The proposed plan includes the ADA Policy Statement, ADA Complaint Procedures, and Reasonable Modification Request Procedures. This was not included previously.

RECOMMENDATION: Bis-Man Transit staff recommends acceptance of the proposed plan update.



3750 E Rosser Avenue,
Bismarck, ND 58501



info@bismantransit.com



701.258.6817



www.bismantransit.com



CIVIL RIGHTS PROGRAM

Title VI, ADA Policy, Reasonable Modification

FEBRUARY 22, 2024

BIS-MAN TRANSIT TITLE VI AND NON-DISCRIMINATION/ADA POLICY STATEMENT

The Bis-Man Transit Board, hereinafter referred to as the “Bis-Man Transit” is committed to compliance with Title VI of the Civil Rights Act of 1964, the Federal-Aid Highway Act of 1973, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973/ADA of 1990, and all related regulations and statutes. Taken together, these requirements define an encompassing Title VI/ADA Program. Title VI and the additional Nondiscrimination requirements are applicable to programs receiving federal financial assistance due to the Civil Rights Restoration Act of 1987.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin. Specifically, 42 USC 2000d state that “No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” In addition to Title VI, there are other Nondiscrimination statutes which include: Section 162(a) of the Federal-Aid Highway Act of 1973 (23 USC 324) (sex), Age Discrimination Act of 1975 (age), and Section 504 of the Rehabilitation Act of 1973/ADA of 1990(disability).

There are two Presidential Executive Orders that place further emphasis upon the Title VI protections. Executive Order 12898 ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse environmental or human health effects on minority and low-income populations. Executive Order 13166 directs recipients of Federal financial assistance that to ensure compliance with Title VI, they must take reasonable steps to ensure that limited English proficiency persons have meaningful access to their programs.

Bis-Man Transit is committed to and supports taking all steps to ensure that no person or groups(s) of persons shall, on the grounds of race, color, national origin, sex, age, disability, limited English proficiency, or income status*, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the Recipient, regardless of whether those programs and activities are federally funded or not.

Bis-Man Transit also assures that every effort will be made to prevent discrimination through the impacts of its programs, policies, and activities on minority and low-income populations. In addition, Bis-Man Transit will provide meaningful access to services for persons with Limited English Proficiency for language assistance free of charge to the person upon request.

In the event the Bis-Man Transit distributes federal-aid funds to a subrecipient, the Bis-Man Transit will include Title VI language in all written agreements and will monitor for compliance.

Bis-Man Transit’s Title VI/ADA Program Coordinator, Deidre Hughes, Executive Director, 701.258.6817, 3750 East Rosser Avenue, Bismarck, ND 58501, dhughes@bismantransit.com is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulations (CFR) 200 and 49 CFR 21.

Signature

Title

Date

Public Notification of Title VI Protection

The Title VI Notice to the Public (Appendix B) informs Bis-Man Transit riders of their rights in regards to transit and its services, specifically protection against discriminatory acts on the basis of race, color or national origin. Notices are posted at Transit offices, as well as on all fixed route and paratransit vehicles. The notice indicates procedures for the public to 1) request additional information on the recipient's Title VI obligations and 2) file a complaint with Bis-Man Transit. In addition to this notice, Bis-Man Transit's fixed route bus maps include a "statement of non-discrimination" followed by a "suggestions, compliments or complaints" section (Appendix B). Any complainant should inform Bis-Man Transit of any complaint regarding Title VI (race, color or national origin) protection through Bis-Man Transit's Complaint Process as directed through the Notice to the Public.

Notice to the Public

Bis-Man Transit Title VI Policy

Bis-Man Transit is responsible for providing a safe, dependable, and affordable transportation service. We encourage any rider or concerned citizen to notify the administrative office if this standard of service is unmet. Any citizen who observes a Transit vehicle operator driving in an unsafe manner may contact the administrative office to report the time and date of the incident. As ensured by the Bis-Man Transit Title VI Policy, Bis-Man Transit will not discriminate against an individual based on race, color, or national origin.* Any person who believes they have experienced discrimination under Title VI protections may file a complaint with Bis-Man Transit. Contact the Bis-Man Transit Administrative Office at 701-258-6817 or go online at www.bismantransit.com for additional information on our Title VI policies or fill out a complaint.

*Title VI of the Civil Rights Act of 1964 governs race, color, and national origin. Related Nondiscrimination authority, 29 U.S.C. 790, governs disability.

Signed _____ Date _____

Name _____ Title _____

Inclusive Public Participation Plan

Bis-Man Transit follows the Bismarck-Mandan Metropolitan Planning Organization's Public Participation Plan (see Appendix D) for any public hearings, public meetings or reviews. The latest Transit Development Plan (TDP) was approved in November 2023. The MPO and Bis-Man Transit utilized various activities to increase the public's participation and interest in the TDP including:

1. A very "user friendly and reactive web page" was used to answer questions and comments from the public during the process.
2. Bis-Man Transit provided virtual links of recorded public meetings.
3. We have a variety of methods for the public to use to discuss transit issues. These methods include phone, e-mail, fax, social media sites (Facebook and Twitter), and in-person visits to the MPO or Bis-Man Transit office.
4. Public outreach through "meet and greets" at various educational and employment centers throughout the area.

In regard to engaging minority, disabled, and low-income community members, Bis-Man Transit has public meetings in accessible meeting locations during evening hours and provides a variety of methods to communicate concerns, questions, or comments.

Since the last Bis-Man Transit Title VI Program submission, Bis-Man Transit has developed and maintained social media accounts on Facebook and Twitter for the fixed route Capital Area Transit (CAT) service. Sites are updated at least weekly, and often multiple times a week, with pertinent updates and to encourage public comment and participation. Television, newspaper and radio marketing has also increased to inform the public about transit services and events.

The Bismarck-Mandan MPO, with Bis-Man Transit as an important member, employs numerous methods to reach "all people" with plans and studies. Accommodations are also made available to facilitate public attendance and participation at all meetings.

Limited English Proficiency Plan
For Bis-Man Transit
February 2024

Deidre Hughes
Executive Director
3750 E. Rosser Avenue, Bismarck, ND 58501
701-258-6817

INTRODUCTION

This *Limited English Proficiency Plan* has been prepared to address the Bis-Man Transit responsibilities as a recipient of federal financial assistance as they relate to the needs of individuals with limited English proficiency language skills. The plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq, and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin.

Executive Order 13166, titled ***Improving Access to Services for Persons with Limited English Proficiency***, indicates that differing treatment based upon a person's inability to speak, read, write or understand English is a type of national origin discrimination. It directs each agency to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. This order applies to all state and local agencies which receive federal funds, including all Bis-Man Transit departments receiving federal grant funds.

Plan Summary

Bis-Man Transit has developed this ***Limited English Proficiency Plan*** to help identify reasonable steps for providing language assistance to persons with limited English proficiency (LEP) who wish to access services provided. As defined Executive Order 13166, LEP persons are those who do not speak English as their primary language and have limited ability to read, speak, write or understand English. This plan outlines how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training that may be required, and how to notify LEP persons that assistance is available.

In order to prepare this plan, the Bis-Man Transit used the four-factor LEP analysis which considers the following factors:

1. The number or proportion of LEP persons in the service area who may be served by the Bis-Man Transit.
2. The frequency with which LEP persons come in contact with Bis-Man Transit services.
3. The nature and importance of services provided by Bis-Man Transit to the LEP population.
4. The interpretation services available to Bis-Man Transit and overall cost to provide LEP assistance. A summary of the results of the four-factor analysis is in the following section.

MEANINGFUL ACCESS: FOUR-FACTOR ANALYSIS

1. **The number or proportion of LEP persons in the service area who may be served or are likely to require Bis-Man Transit services.**

The Bismarck-Mandan MPO staff reviewed the 2018-2022 American Community Survey 5-Year Estimates* for North Dakota and determined that **5,014** individuals in **Bismarck, Lincoln, and Mandan, ND**** (**5.24%** of the population aged 5 years and older) speak a language other than English. Of those, **1,604** individuals have limited English proficiency; that is, they speak English less than "very well" or "not at all." This is only **1.68%** of the overall population aged 5 years and older in the service area. In **Bismarck, Lincoln, and Mandan, ND,**** of those persons with limited English proficiency, **.58%** speaks **Spanish**, **.20%** speaks **French, Haitian, or Cajun**, **.19%** speaks **Arabic**, **.16%** speaks **Russian, Polish, or Other Slavic Languages**, **.14%** speaks **Other Asian and Pacific Island Languages**, **.13%** speaks **German or Other West Germanic Languages**, **.12%** speaks **Other and Unspecified Languages**, **.07%** speaks **Tagalog (including Filipino)**, **.05%** speaks **Chinese (including Mandarin and Cantonese)**, **.03%** speaks **Other Indo-European Languages**, and **.004%** speaks **Vietnamese**.

Following is a table identifying the number of individuals with the ability to speak English less than "very well" and the associated language spoken at home:

**Ability to Speak English Less than "Very Well"
and Associated Language Spoken at Home -
Bismarck, Lincoln, and Mandan, ND****

Language Spoken at Home	Percent of Total Population	Total Number of Individuals
Spanish	0.58%	553
French, Haitian, or Cajun	0.20%	196
Arabic	0.19%	183
Russian, Polish, or Other Slavic Languages	0.16%	150
Other Asian and Pacific Island Languages	0.14%	132
German or Other West Germanic Languages	0.13%	127
Other and Unspecified Languages	0.12%	113
Tagalog (including Filipino)	0.07%	69
Chinese (including Mandarin and Cantonese)	0.05%	50
Other Indo-European Languages	0.03%	27
Vietnamese	0.004%	4

Based on Table C16001 of the 2018-2022 US Census Bureau American Community Survey

**The US Census Bureau has changed collection methodology from the "Long Form" to the American Community Survey. One of the significant differences between the methodologies is that the "Long Form" was a point in time survey collected once every ten years compared to the American Community Survey which is a period survey covering a five-year time frame. Given the relatively small number of individuals who speak languages other than English at home and speak English less than "very well" there may be significantly high Margins of Error associated with some or all of the subject languages.*

2. The frequency with which LEP persons come in contact with Bis-Man Transit services.

The Bis-Man Transit staff reviewed the frequency with which the Bis-Man Transit board and advisory committee members and Bis-Man Transit staff have, or could have, contact with LEP persons. This includes documenting phone inquiries or office visits. To date, the Bis-Man Transit has had zero requests for interpreters and two requests for translated program documents. The Bis-Man Transit board and advisory committee members and Bis-Man Transit staff have had very little contact with LEP persons related to Bis-Man Transit services.

3. The nature and importance of services provided by Bis-Man Transit to the LEP population.

There is no large geographic concentration of any type of LEP individuals in the service area for the Bis-Man Transit. The overwhelming majority of the population, 94.76%, speaks only English. As a result, there are few social, service, professional and leadership organizations within the Bis-Man Transit service area that focus on outreach to LEP individuals. The Bis-Man Transit Board members and Bis-Man Transit staff are most likely to encounter LEP individuals through the transportation of clients.

4. The resource available to Bis-Man Transit and overall costs to provide LEP assistance.

Bis-Man Transit reviewed its available resources that could be used for providing LEP assistance and which of its documents would be most valuable to be translated if the need should arise. Bis-Man Transit, through the City of Bismarck, utilizes a telephone-based interpreter service to provide immediate interpreter services at no cost to LEP individuals. Bis-Man Transit provides

notice to the public of the availability to request accommodations for language assistance. All requests for translation are considered based on the possible impacts and known LEP population.

LANGUAGE ASSISTANCE

A person who does not speak English as their primary language and who has a limited ability to read, write, speak or understand English may be a Limited English Proficient person and may be entitled to language assistance with respect to Bis-Man Transit services. Language assistance can include interpretation, which means oral or spoken transfer of a message from one language into another language and/or translation, which means the written transfer of a message from one language into another language.

How the Bis-Man Transit staff may identify an LEP person who needs language assistance:

- Post notice of LEP Plan and the availability of interpretation or translation services free of charge in languages LEP persons would understand.
- All Bis-Man Transit staff will be provided with Propio translation cards to assist in identifying the language interpretation needed if the occasion arises.
- All Bis-Man Transit staff will be informally surveyed periodically on their experience concerning any contacts with LEP persons during the previous year.
- When the Bis-Man Transit sponsors an informational meeting or event, an advanced public notice of the event should be published, including special needs related to offering a translator (LEP) or interpreter (sign language for hearing-impaired individuals). Additionally, a staff person may greet participants as they arrive. By informally engaging participants in conversation, it is possible to gauge each attendee's ability to speak and understand English. Although translation may not be able to be provided at the event it will help identify the need for future events.

Language Assistance Measures

Although the Bismarck-Mandan MSA has a very low percentage in of LEP individuals, that is, persons who speak English "not well" or "not at all," Bis-Man Transit will strive to offer the following measures:

1. The Bis-Man Transit staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating English.
2. The following resources will be available to accommodate LEP persons:
 - Language interpretation will be accessed for non-English languages through a telephone interpretation service.

STAFF TRAINING

The following training will be provided to all staff:

- Information on the Title VI Policy and LEP responsibilities.
- Description of language assistance services offered to the public.
- Use of the Propio translation service cards.
- Documentation of language assistance requests.
- How to handle a potential Title VI/LEP complaint.

All contractors or subcontractors performing work for Bis-Man Transit will be required to follow the Title VI/LEP guidelines.

TRANSLATION OF DOCUMENTS

Bis-Man Transit weighed the cost and benefits of translating documents for potential LEP groups. Considering the expense of translating the documents, the likelihood of frequent changes in documents and other relevant factors, at this time it is an unnecessary burden to have any documents translated.

Due to the very small local LEP population, Bis-Man Transit does not have a formal outreach procedure in place, as of 2024. Translation resources have been identified and are limited in this region. However, when and if the need arises for LEP outreach, Bis-Man Transit will consider the following options:

- When staff prepares a document or schedules a meeting for which the target audience is expected to include LEP individuals, then documents, meeting notices, flyers, and agendas will be printed in an alternative language based on the known LEP population.
- Bis-Man Transit will assess requests for translations of documents based on the possible impacts and known LEP population using the Four Factor Analysis.
- Bis-Man Transit will make every effort to provide services in a timely manner.
- Bis-Man Transit will pay for interpreter services and translation of vital documents as necessary.

Bis-Man Transit has identified vital documents as those documents that are critical for obtaining or utilizing services. These may include:

- Paratransit/Demand Response Applications
- Complaint Procedures and Forms
- Notices advising LEP persons of the availability of free language assistance
- Letters or Notices that require a response
- Rider guides

A “safe harbor” provision regarding the translation of documents is provided by the Department of Justice. The DOJ suggests providing written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. The safe harbor provision applies to the translation of written documents only.

MONITORING

Monitoring and Updating the LEP Plan – Bis-Man Transit will update the LEP Plan as required. At a minimum, the plan will be reviewed and updated when data from the 2030 U.S. Census is available, or when it is clear that higher concentrations of LEP individuals are present in the Bis-Man Transit service area. Updates will include the following:

- The number of documented LEP person contacts encountered annually.
- How the needs of LEP persons have been addressed.
- Determination of the current LEP population in the service area.
- Determination as to whether the need for translation services has changed.
- Determine whether local language assistance programs have been effective and sufficient to meet the need.
- Determine whether the Bis-Man Transit financial resources are sufficient to fund language assistance resources needed.
- Determine whether Bis-Man Transit fully complies with the goals of this LEP Plan.
- Determine whether complaints have been received concerning the agency’s failure to meet the needs of LEP individuals.
- Maintain a Title VI complaint log, including LEP to determine issues and basis of complaints.

DISSEMINATION OF THE BIS-MAN TRANSIT LEP PLAN

- Post signs at conspicuous and accessible locations notifying LEP persons of the LEP Plan and how to access language services.
- State on public notices that a Request for Reasonable Accommodations form is available to LEP individuals to request documents in various languages.
- Post on the Bis-Man Transit website the Title VI/LEP Plan and how to access language services.

Socio Economic Information

TIP Overview Map

2023-2026 Transportation Improvement Program (Year 2023)

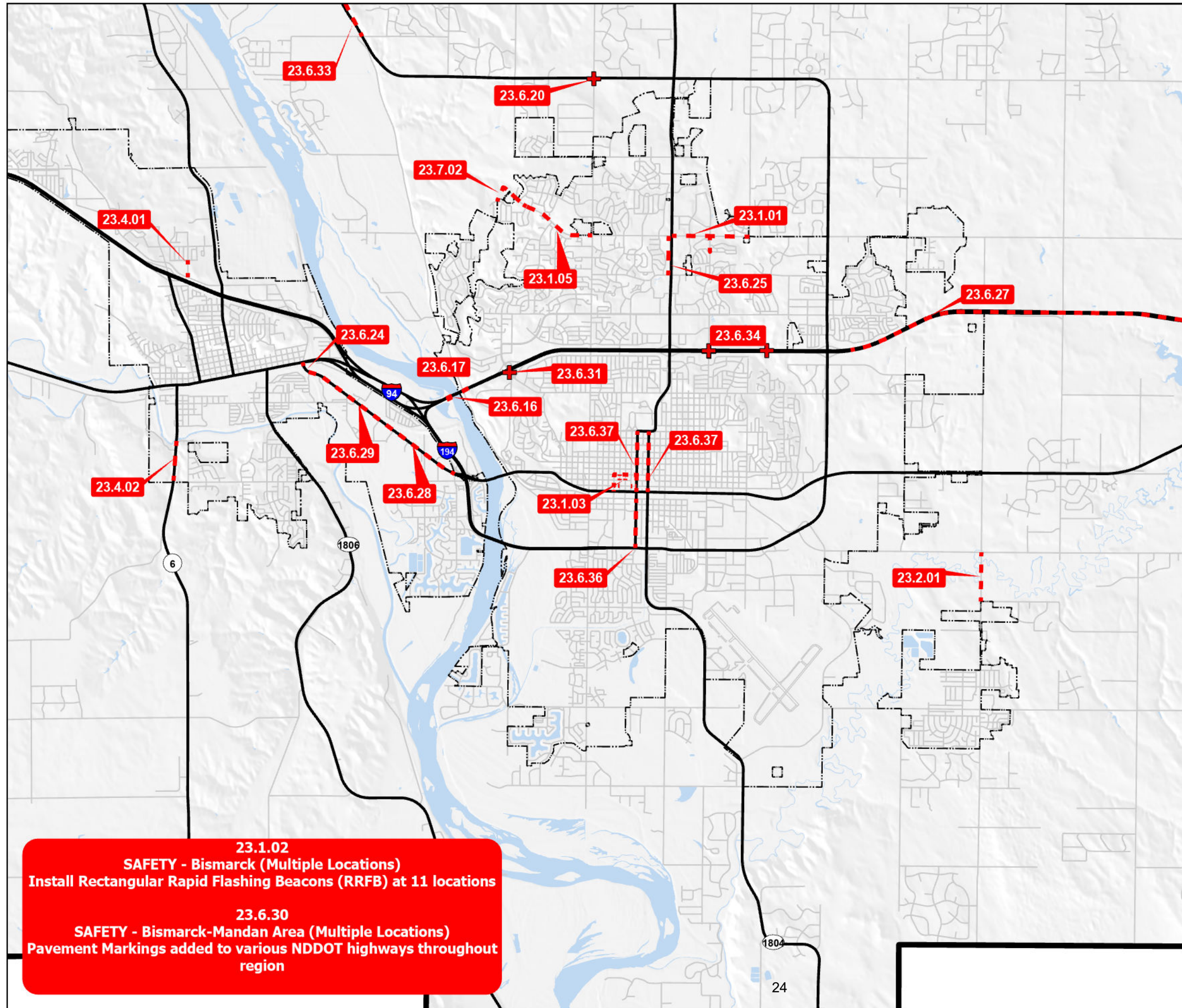
- + 2023 TIP Points
- - 2023 TIP Lines
- MPO Boundary
- Corporate Limits



2.5
Miles

This data is for representation only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.

Map created by DAN June 2023 based on data maintained by the City of Bismarck and Bismarck-Mandan MPO.
X:\ArcProProjects\MPO\TitleVI\TitleVI.aprx



23.1.02
SAFETY - Bismarck (Multiple Locations)
Install Rectangular Rapid Flashing Beacons (RRFB) at 11 locations

23.6.30
SAFETY - Bismarck-Mandan Area (Multiple Locations)
Pavement Markings added to various NDDOT highways throughout region

Population in Poverty

2023-2026 Transportation Improvement Program (Year 2023)

- 2023 TIP Points
- 2023 TIP Lines
- MPO Boundary
- Corporate Limits
- Population in Poverty
 - 0 - 5%
 - 5% - 10%
 - 10.1% - 15%
 - 15%+



2.5 Miles

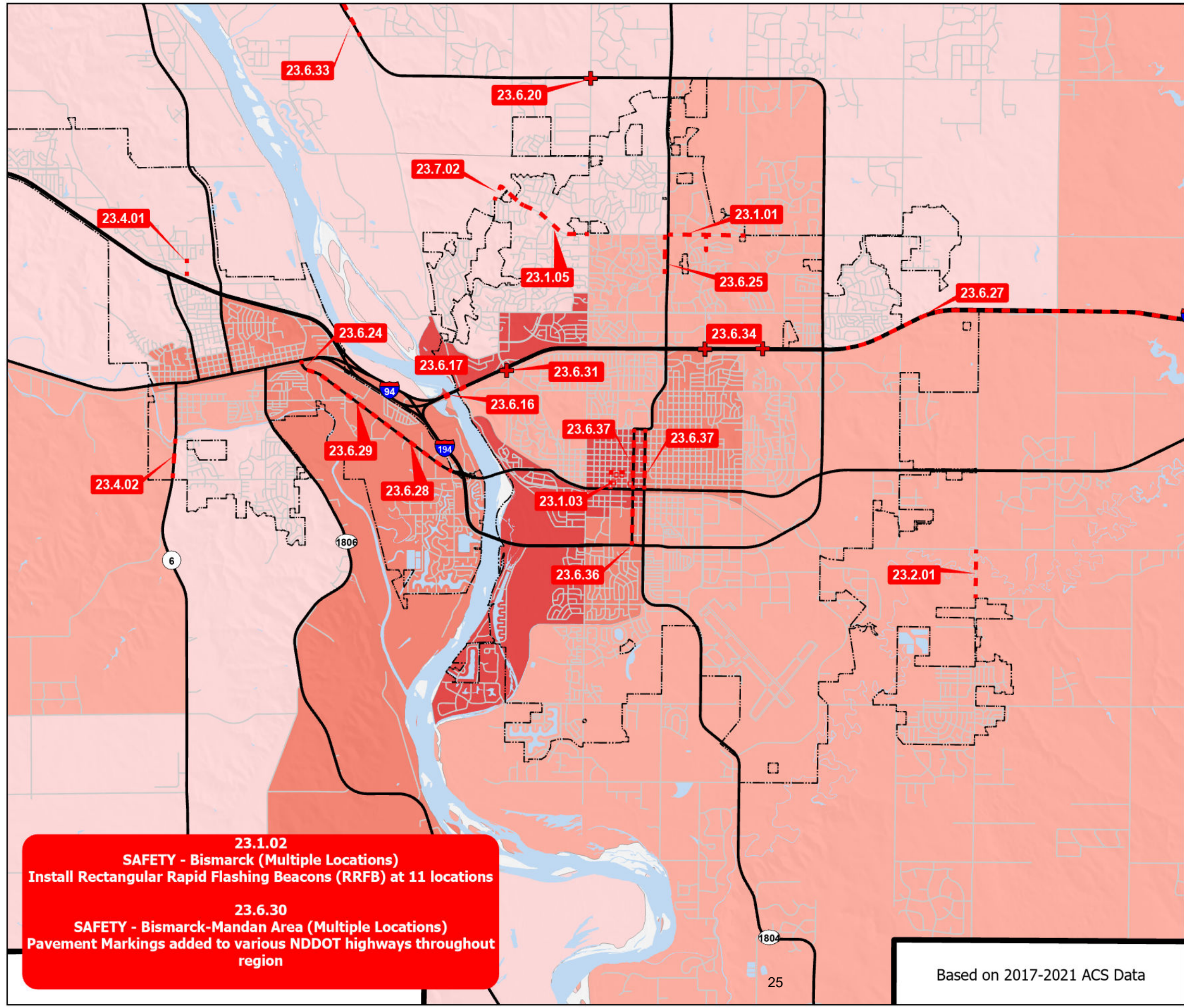
This data is for representation only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.

Map created by DAN June 2023 based on data maintained by the City of Bismarck and Bismarck-Mandan MPO.
X:\ArcProProjects\MPO\TitleVI\TitleVI.aprx

23.1.02
SAFETY - Bismarck (Multiple Locations)
Install Rectangular Rapid Flashing Beacons (RRFB) at 11 locations

23.6.30
SAFETY - Bismarck-Mandan Area (Multiple Locations)
Pavement Markings added to various NDDOT highways throughout region

Based on 2017-2021 ACS Data



Racial Composition Map

Minority Population

2023-2026 Transportation Improvement Program (Year 2023)

- 2023 TIP Points
- 2023 TIP Lines
- MPO Boundary
- Corporate Limits
- Minority Population
 - 0% - 5%
 - 5% - 10%
 - 10% - 20%
 - 20+%



2.5 Miles

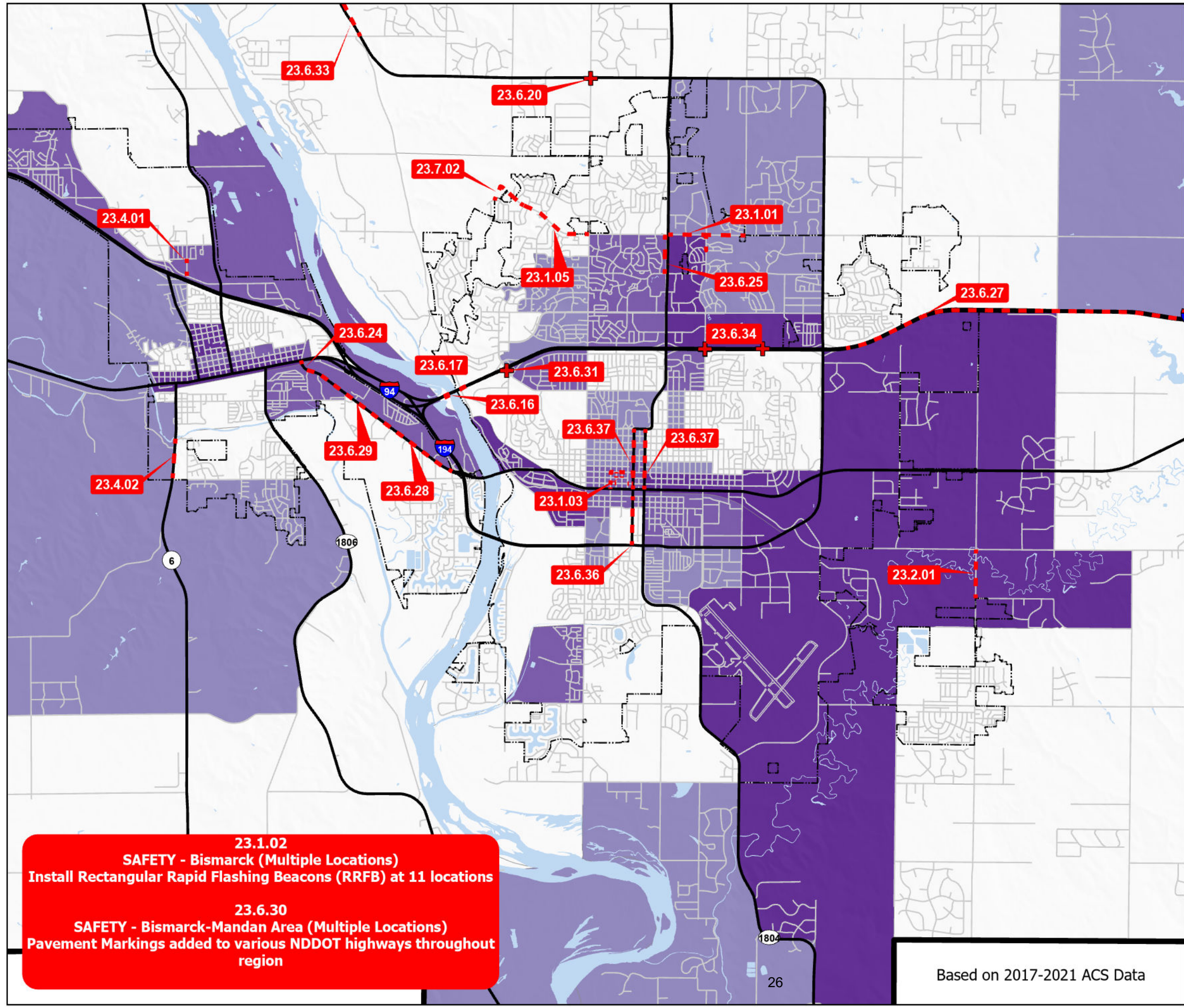
This data is for representation only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.

Map created by DAN June 2023 based on data maintained by the City of Bismarck and Bismarck-Mandan MPO.
X:\ArcProProjects\MPO\TitleVI\TitleVI.aprx

23.1.02
SAFETY - Bismarck (Multiple Locations)
Install Rectangular Rapid Flashing Beacons (RRFB) at 11 locations

23.6.30
SAFETY - Bismarck-Mandan Area (Multiple Locations)
Pavement Markings added to various NDDOT highways throughout region

Based on 2017-2021 ACS Data



Elderly Composition Map

Elderly Population

2023-2026 Transportation Improvement Program (Year 2023)

- 2023 TIP Points
- 2023 TIP Lines
- MPO Boundary
- Corporate Limits
- Elderly Population
Percent of Population that is 65+
- 0% - 10%
- 10.1% - 20%
- 20.1% - 30%
- 30%+



2.5 Miles

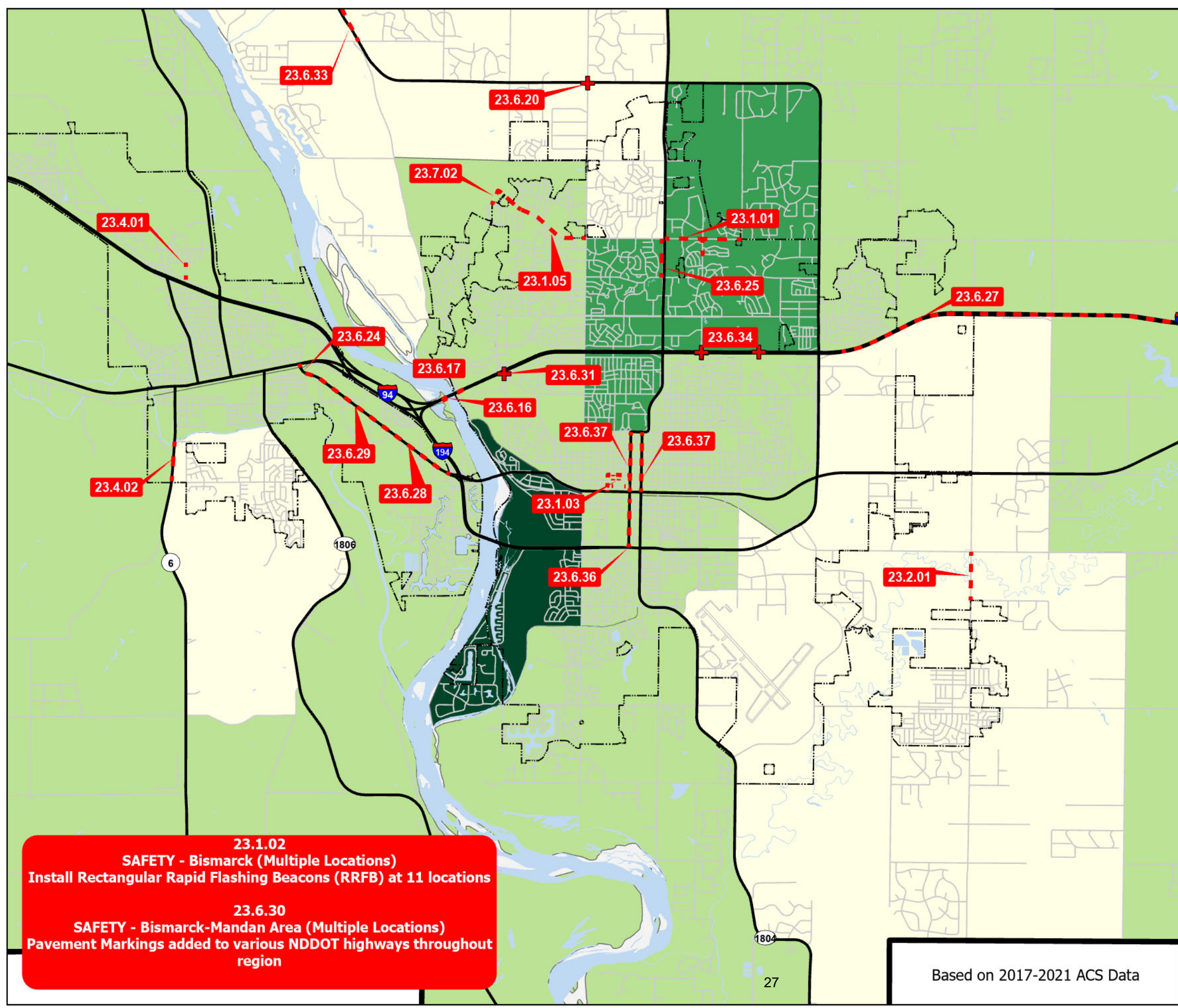
This data is for representation only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.

Map created by DAN June 2023 based on data maintained by the City of Bismarck and Bismarck-Mandan MPO.
X:\ArcProProjects\MPO\TitleVI\TitleVI.aprx

Based on 2017-2021 ACS Data

23.1.02
SAFETY - Bismarck (Multiple Locations)
Install Rectangular Rapid Flashing Beacons (RRFB) at 11 locations

23.6.30
SAFETY - Bismarck-Mandan Area (Multiple Locations)
Pavement Markings added to various NDDOT highways throughout region



Percent Poverty Map

Population in Poverty

2023-2026 Transportation Improvement Program (Year 2023)

- 2023 TIP Points
- 2023 TIP Lines
- MPO Boundary
- Corporate Limits
- Population in Poverty
 - 0 - 5%
 - 5% - 10%
 - 10.1% - 15%
 - 15%+



2.5 Miles

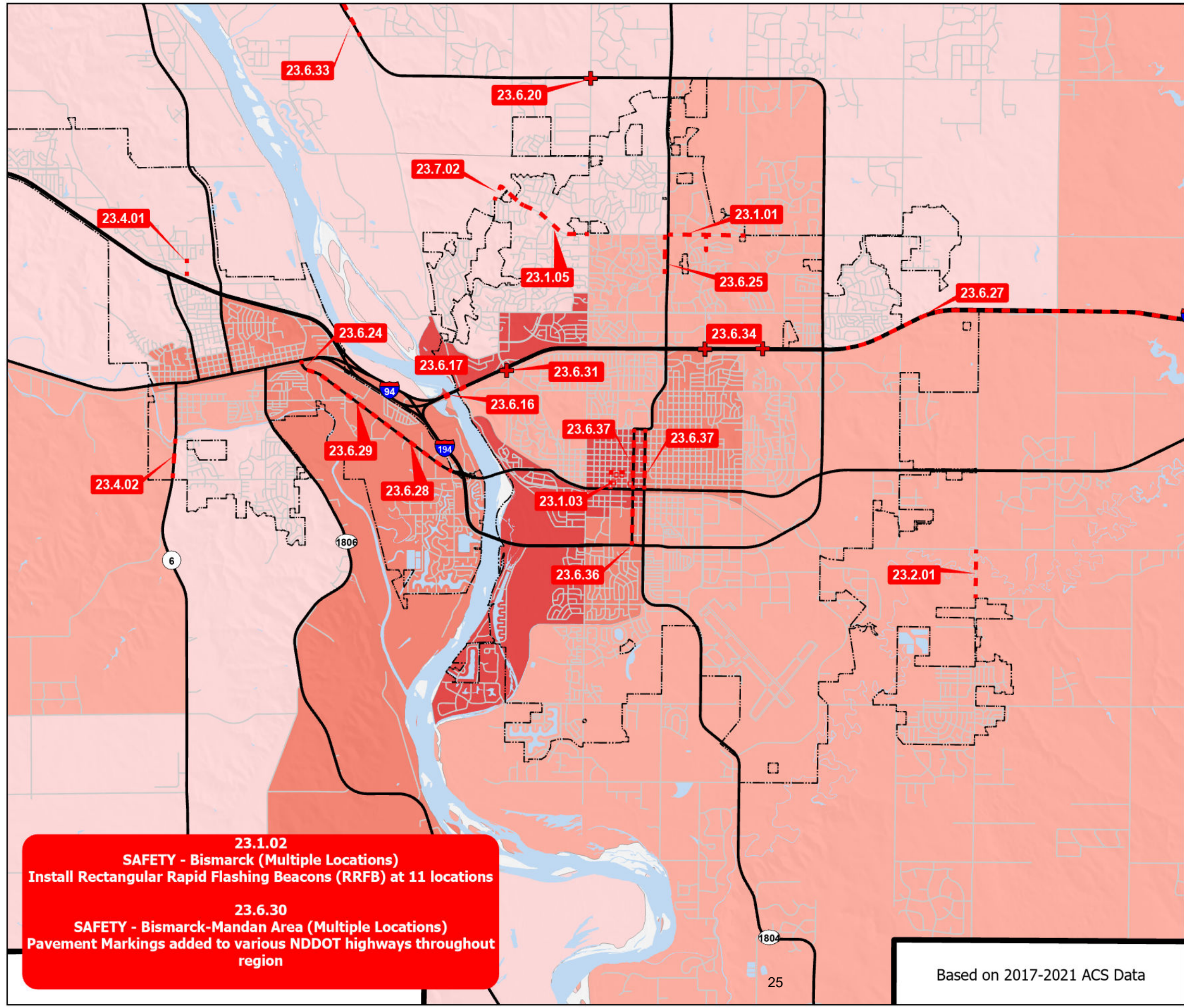
This data is for representation only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.

Map created by DAN June 2023 based on data maintained by the City of Bismarck and Bismarck-Mandan MPO.
X:\ArcProProjects\MPO\TitleVI\TitleVI.aprx

23.1.02
SAFETY - Bismarck (Multiple Locations)
Install Rectangular Rapid Flashing Beacons (RRFB) at 11 locations

23.6.30
SAFETY - Bismarck-Mandan Area (Multiple Locations)
Pavement Markings added to various NDDOT highways throughout region

Based on 2017-2021 ACS Data



Ability to Speak English Less than “Very Well”-Other Language Spoken at Home Map

Percent Spanish Spoken at Home

2023-2026 Transportation Improvement Program (Year 2023)

- 2023 TIP Points
- 2023 TIP Lines
- MPO Boundary
- Corporate Limits
- Percent Spanish Spoken at Home
 - 0% - 0.5%
 - 0.5% - 1%
 - 1+%

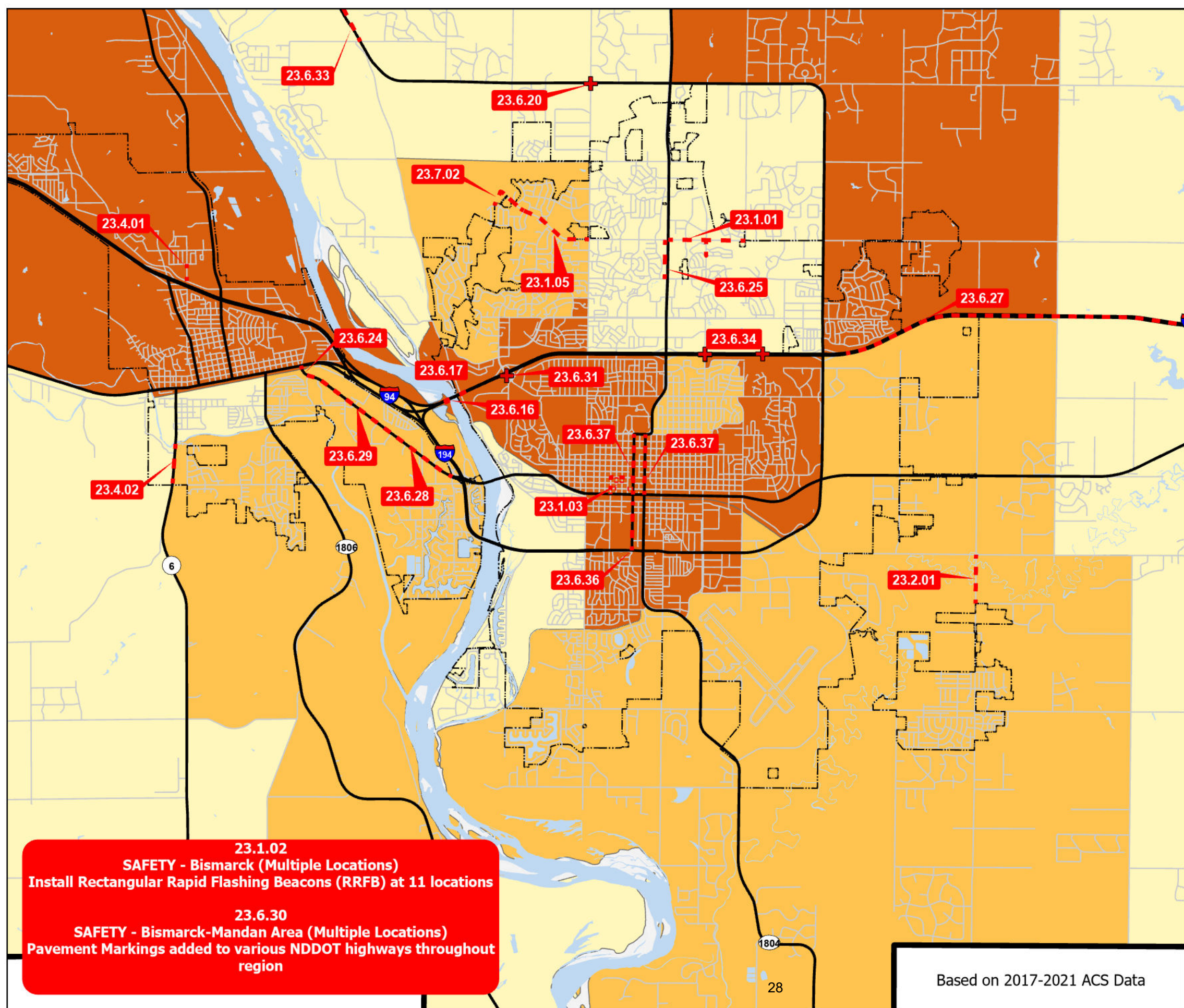


2.5 Miles

This data is for representation only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.

Map created by DAN June 2023 based on data maintained by the City of Bismarck and Bismarck-Mandan MPO.
X:\ArcProProjects\MPO\TitleVI\TitleVI.aprx

Based on 2017-2021 ACS Data



23.1.02
SAFETY - Bismarck (Multiple Locations)
Install Rectangular Rapid Flashing Beacons (RRFB) at 11 locations

23.6.30
SAFETY - Bismarck-Mandan Area (Multiple Locations)
Pavement Markings added to various NDDOT highways throughout region

Percent Other Spoken at Home

2023-2026 Transportation Improvement Program (Year 2023)

- + 2023 TIP Points
- - - 2023 TIP Lines
- MPO Boundary
- Corporate Limits
- Census Tract
- Percent Other Spoken at Home
- 0% - .5%
- .5% - 1%
- 1%+

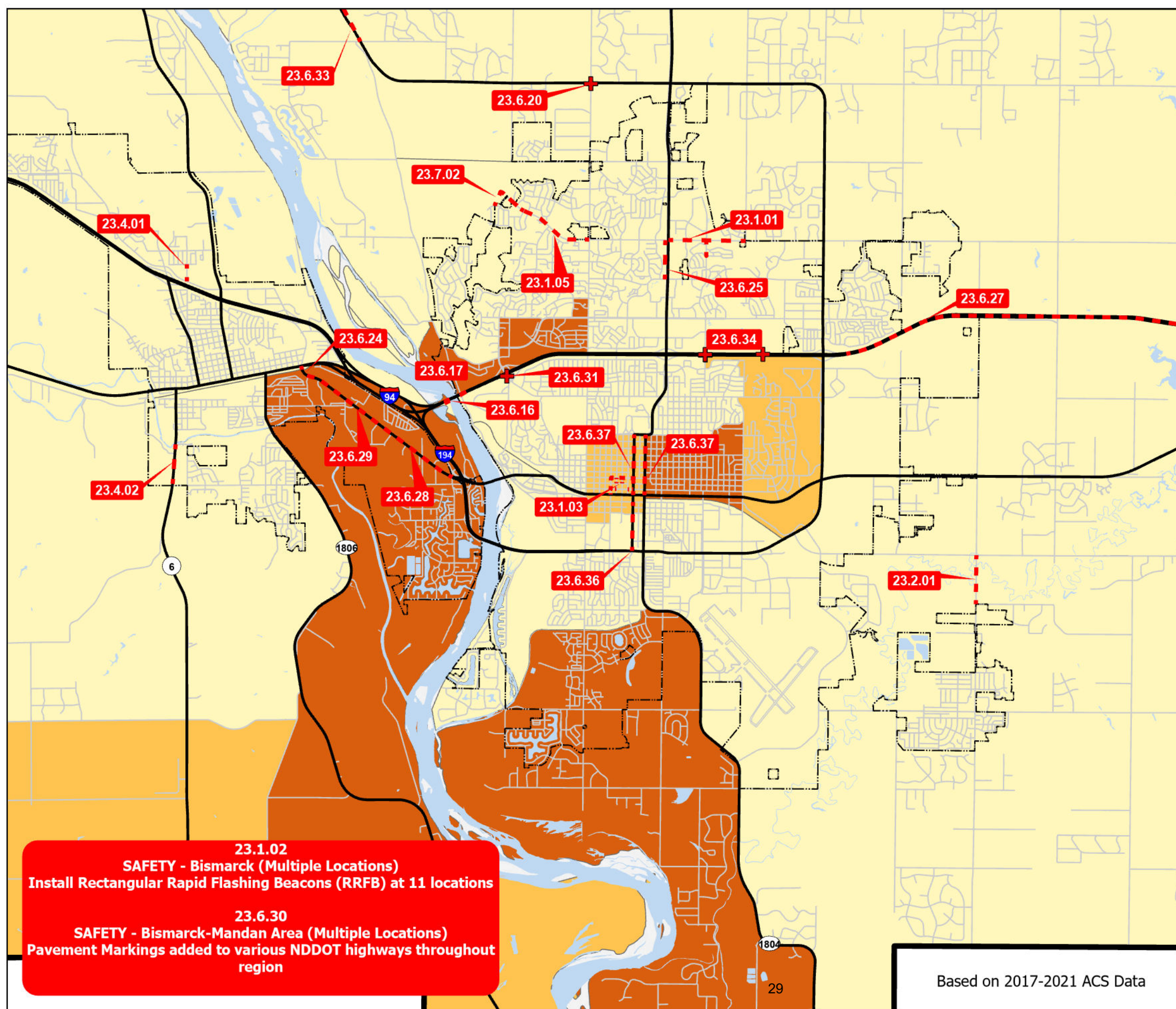


2.5
Miles

This data is for representation only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.

Map created by DAN June 2023 based on data maintained by the City of Bismarck and Bismarck-Mandan MPO.
X:\ArcProProjects\MPO\TitleVI\TitleVI.aprx

Based on 2017-2021 ACS Data



Transit Related Title VI Investigations, Complaints and Lawsuits

There have not been any lawsuits, complaints or investigations relating to Bis-Man Transit since the last Title VI report in March 2021.

Membership of Non-Elected Committees and Councils

The Bis-Man Transit Board elects their own members. Therefore, Bis-Man Transit has decided to document the membership of persons who represent minority classes. Although Transit's Board of Directors is not ethnically diverse, other minority and protected classes—including disabled persons and women—are highly represented. Overall this assembly reflects the local population, whose composition is not dominated by ethnic minorities.

Minority Populations Represented on Bis-Man Transit Board of Directors

Class		Number of Individuals	Percentage of Board (11 Members)	Percentage of Bismarck MSA*
RACE				
	Caucasian	9	100%	93.3%
	Other Races	0	0.0%	4.9%
	2 or More Races	0	0.0%	1.8%
SEX				
	Male	6	66.7%	50.6%
	Female	3	33.3%	49.4%
DISABILITY				
	Disabled	2	22%	--
	Non-Disabled	7	78%	--

*Percentages based on 2014-2020 U.S. Census Bureau American Community Survey, covering the Bismarck Metropolitan Statistical Area.

-- Estimate not available in 2014-2020 U.S. Census Bureau American Community Survey.

Monitoring of Subrecipients Title VI Compliance

All contractors or subcontractors performing work for Bis-Man Transit will be required to follow Title VI / LEP guidelines. Such assurance is made at the time the contract is established.

Title VI Equity Analysis of Newly Constructed Facilities

There have been no newly constructed facilities since the last Title VI plan was completed in 2021.

Bis-Man Transit System-Wide Service Standards and Policies

Scope of Service Standards and Policies:

Title 49 CFR states that “[n]o person or group of persons shall be discriminated against with regard to the to routing, scheduling, or quality of service of transportation service furnished as a part of the project on the basis of race, color, or national origin. Frequency of service, age and quality of vehicles assigned to routes, quality of stations serving different routes, and locations of routes may not be determined on the basis of race, color, or national origin.” Service Standards and Policies are designed as qualitative controls, set by Bis-Man Transit to assess their operational practices and ensure that service design does not discriminate against Title IV protected classes.

Service Standards:

- **Vehicle Load Standard**

Fixed route buses should not exceed capacity during peak times, which will include a maximum number of 38 passengers on 30’ buses and 50 passengers on 35’ buses. To ensure safe and proper load standards, Bis-Man Transit will deploy only large buses on its heaviest routes during peak periods.

- **Vehicle Headway Standard**

Bis-Man Transit deploys only one bus per fixed route at all times and days of operation. Further, there are no plans to develop routes with multiple vehicles. Therefore, headway standards do not apply to the Capital Area Transit (CAT) services.

- **On Time Performance Standard**

Between 90 and 95 % of CAT buses will complete their routes no more than 5 minutes early or late in comparison to the published schedules.

- **Service Availability Standard**

Fixed route buses will continue to employ a flag system that allows passengers to begin or terminate a ride at the nearest safe corner to their current/desired location. Transit services will be distributed in a way to encompass the majority of the Bismarck-Mandan community.

Bis-Man Transit Service Policies:

- **Transit Amenities Policies**

Transit will provide benches at all shelters along bus routes. Shelters will be constructed based upon the number and frequency of passengers and in accordance with city ordinances. Passengers will have the right to request benches at timing and transfer points. Transit will provide benches provided there is no objection from surrounding businesses to said fixtures.

- **Vehicle Assignment Policies**

All 30’ CAT buses are comparable, if not the same, in seating and comfort standards. These buses will be deployed on random rotational basis to all routes throughout the Bis-Man community. The larger 35’ buses will be utilized during peak travel times on routes with the highest average ridership, as these vehicles have the capacity to carry the largest influx of riders.



External Complaints Of Discrimination

PART I: COMPLAINANT INFORMATION (Print all items legibly.)

Name		Telephone
Street Address/P.O. Box		Email Address
City	State	Zip Code

PART II: CAUSE OF DISCRIMINATION OR COMPLAINT BASED ON [Check all appropriate box(s).]

Title VI of the Civil Rights Act of 1964

☐ Race ☐ Color ☐ National Origin

Other Nondiscrimination Statutes/Executive Orders

☐ Sex ☐ Disability ☐ Limited English Proficiency ☐ Age
☐ Income Status

General

☐ Driver Conduct/Attitude ☐ Late/Tardy ☐ Early
☐ Did Not Show ☐ Air Conditioning/Heating ☐ Telephone/Dispatch
☐ Vehicle Maintenance ☐ Careless Driving/Comfort ☐ Disturbance on Bus
☐ Other _____

PART III: THE PARTICULARS ARE: (Include names, dates, places, and incidents involved in the complaint.) [If additional space is needed, attach extra sheet(s).]

PART IV: REMEDY SOUGHT [State the specific remedy sought to resolve the issue(s).]

Part V: VERIFICATION

Complainant's Signature _____ Date _____

Instructions

GENERAL

1. Instructions provided within this form are not meant to be all inclusive. Any person or group(s) of persons filing external complaints of discrimination are responsible for all procedural requirements contained in the External Complaints of Discrimination process.
2. Under Title VI of the Civil Rights Act of 1964 or the related statutes and regulations, no person or groups(s) of persons shall, on the grounds of race, color, national origin; or sex, age, disability, limited English proficiency, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by **Bis-Man Transit**. Any person or groups(s) of persons who feel they have been discriminated against may file a complaint.
3. Complainants **must** include all required information and **must** meet all timeframes as defined in the **Bis-Man Transit** Complaint Procedure.
4. Legible copies of all available pertinent documentation should be attached to this form.
5. All inquiries should be directed to **Deidre Hughes, Bis-Man Transit, 3750 East Rosser Avenue, Bismarck, ND 58501, 701.258.6817.**

PART I

Complete all information in this section.

PART II

Check all boxes that apply indicating the basis for the complaint. The discrimination **must** be based on at least one of the listed categories under Title VI or Other Nondiscrimination Statutes/Executive Orders. If the complaint pertains to service and the type is not listed, select "Other" and describe.

PART III

State the specific complaint in a manner that clearly identifies the issues upon which the complaint is based.

PART IV

State the minimum remedy acceptable for resolution of this complaint.

PART V

Sign and date this section to verify the information contained in Parts I through IV.

External Complaints of Discrimination

A. Introduction

Bis-Man Transit's External Complaints of Discrimination process is consistent with the Federal Transit Administration's (FTA) Title VI complaint procedures filed under Title VI of the Civil Rights Act of 1964 (and related nondiscrimination statutes), Title II of the Americans with Disabilities Act of 1990, and/or Section 504 of the Rehabilitation Act of 1973. The related nondiscrimination

statutes, regulations, Executive Orders (E.O.), directives, and other references are available upon request.

B. Agencies Authorized to Receive Complaints

Complaints may be submitted to one of the following: Sub Recipient of NDDOT, NDDOT, FTA, the United States Department of Transportation (USDOT), or the United States Department of Justice (USDOJ). See Appendix A.

C. Persons Eligible to File

Any person or any specific class of persons, by themselves or by a representative, that believe they have been subjected to discrimination or retaliation prohibited by Title VI of the Civil Rights Act of 1964 (Race, Color, or National Origin), Section 504 of the Rehabilitation Act of 1973 (Section 504), or Title II of the Americans with Disabilities Act of 1990 (ADA), or related statutes (age, sex, or income status), may file a complaint.

D. Filing a Complaint

1. A complaint is a written or electronic statement concerning an allegation of discrimination that contains a request for the receiving office to take action. Complaints should be complete and sign Bis-Man Transit's External Complaints of Discrimination form and file by mail, fax, in person, or e-mail. A complaint should contain at least the following information:
 - a. A written explanation of what has happened;
 - b. A way to contact the complainant;
 - c. The basis of the complaint, i.e., race, color, national origin; or sex, age, disability, income status, or limited English proficiency;
 - d. The identification of the respondent, i.e., agency/organization alleged to have discriminated;
 - e. Sufficient information to understand the facts that led the complainant to believe that discrimination occurred; and
 - f. The date(s) of the alleged discriminatory act(s).
2. While the above indicates a complaint should be in writing and signed, Bis-Man Transit will accept complaints in alternate formats from persons with disabilities, upon request.
 - a. Upon request to Bis-Man Transit, the complaint may be filed on a compact disk (PDF, work document, or audio recording are all acceptable formats) or in Braille.
3. The complainant may contact Bis-Man Transit for assistance in filing a complaint. Bis-Man Transit will consider every request for reasonable accommodation to provide:
 - a. Accommodation for people with disabilities;
 - b. Language interpretation for people with limited English proficiency (LEP);
 - c. Translation of written materials necessary to access Bis-Man Transit programs and information.

To request accommodations, complainants may contact: Bis-Man Transit, 3750 East Rosser Avenue, Bismarck, ND 58501, 701.258.6817, info@bismantransit.com

TTY users may use Relay North Dakota at 711 or (800)366-6888.

E. Timeframes for Filing a Complaint

1. Complaints must be filed within 180 calendar days of the last date of the alleged discrimination, unless the time for filing is extended. The filing date of the complaint is the earlier of:
 - a. The postmark of the complaint, or
 - b. The date the complaint is received by any agency that has jurisdiction for the complaint. See Appendix A.

F. Complaints Received by Bis-Man Transit Under FTA Jurisdiction

1. Complaints filed under Title VI, related statutes, and Section 504/ADA in which Bis-Man Transit is named as respondent will be forwarded by Bis-Man Transit to NDDOT Civil Rights Division.
2. Title VI, related statutes, and Section 504/ADA complaints filed directly with Bis-Man Transit against its sub recipients or contractors will be processed by Bis-Man Transit in accordance with the FTA approved complaint procedures under FTA C 4710.1, FTA C 4702.1B, 49 CFR 27.13(b).
3. Bis-Man Transit may investigate complaints against its sub recipients or contractors as follows:
 - a. The complaint will be reviewed within 10 business days to determine whether it contains all of the necessary information required for acceptance.
 - b. If the complaint is complete and no additional information is needed, the complainant will be sent a letter of acceptance along with the Complainant Consent/Release form and the Notice About Investigatory Uses of Personal Information fact sheet.
 - c. If the complaint is incomplete, the complainant will be contacted in writing or by telephone to obtain the additional information. The complainant will be given 10 business days to respond to the request for additional information.
 - d. If the investigator is not contacted by the complainant or does not receive the additional information within 15 business days, or if the complainant no longer wishes to pursue their case, the Bis-Man Transit can issue a letter and administratively close the case.

G. Complainant is Represented by an Attorney

Complainants represented by an attorney should provide a letter of representation.

H. Timeframes for Investigations by Bis-Man Transit

1. For Title VI or related statutes complaints, Bis-Man Transit is required to follow the FTA C 4702.1B to comply with reporting requirements of 49 CFR 21.9(b). The investigation information is recorded on the Transit Title VI – List of Investigations, Lawsuits, and Complaints (SFN 60805) and submitted to NDDOT every year. Although, FTA regulations do not specify a timeframe for the investigation of Title VI complaints, the Bis-Man Transit attempts to complete investigations within 90 calendar days of receipt of the complaint from NDDOT.
2. For Section 504/ADA complaints, Bis-Man Transit is required to follow the FTA C 4710.1 to comply with reporting requirements of 49 CFR 27.121(b). Bis-Man Transit shall forward a copy of the complaint, together with a copy of the report of investigation within 90 calendar days of receipt of the complaint to NDDOT and FTA.

I. Letters of Finding (LOFs)

1. The FTA has delegated authority for issuing LOFs for Title I, related statutes, and Section 504/ADA complaints processed by FTA.
2. Bis-Man Transit has delegated authority for issuing LOFs for Title VI, related statutes, and Section 504/ADA complaints processed by Bis-Man Transit against FTA funded sub recipients or contractors.

J. Appeals

1. LOFs issued by the FTA are administratively final.
2. Closure letters or LOFs issued by Bis-Man Transit under FTA jurisdiction on Title VI, related statutes, and Section 504/ADA are administratively final. Individuals or a specific class of individuals, personally or through a representative, may submit a complaint to the North Dakota Department of Transportation (NDDOT) or Federal Transit Administration (FTA) within 180 days from the date of the alleged discrimination.

APPENDIX A

Agencies Authorized to Receive and Process Complaints of Discrimination

North Dakota Department of Transportation

Civil Rights Division
608 E. Boulevard Avenue
Bismarck, ND 58507-0700

Phone: (701) 328-2576
Fax: (701) 328-0343
TTY: 711 or (800) 366-6888

Federal Transit Administration (FTA)

Office of Civil Rights
Attention: Complaint Team
East Building, 5th Floor – TCR
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Phone (888) 446-4511

United States Department of Transportation (USDOT)

Departmental Office of Civil Rights
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Phone: (202) 366-4649
Fax: (201) 202) 366-5575
TTY/Assistive Device: (202) 366-9696

USDOJ – Race, Color, National Origin Complaints

Federal Coordination & Compliance Section – NWB
Civil Rights Division
U.S. Department of Justice (USDOJ)
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Phone: (888) 848-5306 (English & Spanish)
(202) 307-2222 (voice)
(202) 307-2678 (TDD)

USDOJ – ADA Complaints

US Department of Justice (USDOJ)
950 Pennsylvania Avenue, N.W.
Civil Rights Division
Disability Rights Section 1425 NYAV
Washington, DC 20530

Fax: (202) 307-1197

ADA Information Line: (800) 514-0301 (voice) or
(800) 514-0383 (TTY)
Main Section Telephone Number:
(202) 307-0663 (voice and TTY)

2024

ADA COMPLAINT POLICY & PROCEDURE

The following procedures apply to Bis-Man Transit.

Right to File a Complaint Under Americans with Disabilities Act of 1990 (ADA)

Any person who has a complaint about the accessibility of our transit system or believes discrimination has occurred on the basis of disability by Bis-Man Transit may file a written complaint detailing the accessibility issue or incident. All alleged discrimination complaints must be received within 180 days of the incident in question. Beyond that time period, complaints will be classified as comments.

Please provide all facts and circumstances surrounding the issue or accessibility complaint so the issue may be fully investigated.

How to File a Complaint

Any person who believes himself/herself or any specific class of individuals to be harmed by failure to comply with ADA regulations may, personally or through a representative, file a written complaint with the Executive Director.

It is best to file the complaint as soon as possible after the alleged discrimination, and keep a copy of it. Include as many details as possible (who, what, when, where, and so on).

Bis-Man Transit has the following options for filing the complaint:

Email: Send an email to the Executive Director, info@bismantransit.com.

Call: Phone the Executive Director at 701.258.6817.

Mail: Print the ADA Comment Form, complete and mail to: Bis-Man Transit, Attention Executive Director, 3750 East Rosser Ave, Bismarck, ND 58501.

In Person: An ADA Comment Form can be located at 3750 East Rosser Ave, Bismarck, ND 58501.

Alternatively, you may download a copy of the form at www.bismantransit.com.

Complainant does not have to file with Bis-Man Transit first in order to file with the Federal Transit Administration.

For written complaints, please include the following:

- Your name, address and contact information (telephone number, email address)
- For accessibility complaints: time, date, and location of the occurrence and reason you believe the agency, location, or service is not accessible to persons with disabilities
- For complaints related to alleged discrimination based on disability: time, date, location, and a description of the incident, names and/or descriptions of individuals involved, and why you believe the act was discriminatory.
- In both situations, please include the vehicle number and/or route if applicable.
- Please also provide any other documentation that is relevant to the complaint.

For complaints alleging discrimination based on disability, an investigation will be initiated within 10 days of receiving the complaint. Bis-Man Transit will make every effort to respond to ADA complaints within 30 working days of receipt.

If complainants disagree with the determination, they can appeal the decision in writing within thirty (30) days from the date of the determination. The appeal letter should state the reason(s) the complainant believes the decision was in error. The appeal letter should be mailed to Board of Directors, 3750 East Rosser Ave, Bismarck, ND 58501.

File an ADA complaint in Washington D.C.

You can file a complaint with the Federal Transit Administration (FTA) Office of Civil Rights in Washington D.C., by:

Going to the FTA ADA website to file a complaint with the FTA.

Sending a complaint letter to:
FTA Office of Civil Rights
Attention: Complaint Team
East Building, 5th Floor – TCR
1200 New Jersey Avenue, SE
Washington, DC 20590

Complaint Assistance

If you are unable to complete a written complaint, please contact Bis-Man Transit at 701.258.6817 during regular business hours for assistance.



Feedback and ADA Complaint Form

SECTION I: TYPE OF COMMENT (Choose One)*				
<input type="checkbox"/> Compliment	<input type="checkbox"/> Suggestion	<input type="checkbox"/> Complaint	<input type="checkbox"/> Other	ADA Related? Y / N
SECTION II: CONTACT INFORMATION				
Salutation [Mr./Mrs./Ms., etc]:				
Name:				
Rider ID (if applicable):				
Street Address:				
City, State, Zip code:				
Phone:		Email:		
Accessible Format Requirements:	Large Print____	TDD/Relay____	Audio Recording____	Other_____
SECTION III: COMMENT DETAILS				
Transit Service (Choose One) [as applicable] Fixed Route/Paratransit*				
Date of Occurrence:		Time of Occurrence:		
Name/ID of Employee(s) of Others Involved:				
Vehicle ID/Route Name or Number:				
Direction of Travel:				
Location of Incident				
Mobility Aid Used (if any):				
If above information is unknown, please provide other descriptive information to help identify the employee:				
Description of Incident or Message:				
Section IV: FOLLOW UP				
May we contact you if we need more details or information?		Yes	No	
What is the best way to reach you? (Choose one)*		Phone	Email	Mail
If a phone call is preferred, what is the best day and time to reach you?				
Section V: DESIRED RESPONSE (Choose One)*				
• Email Response				
• Telephone Response				
• Response by U.S. Postal Mail				

Reasonable Modification

REASONABLE MODIFICATION POLICY

In accordance with ADA regulations, it is the policy of Bis-Man Transit to provide individuals with disabilities with a reasonable modification to its policies, practices, and procedures so that they can access Bis-Man Transit's programs, facilities and services.

What is a reasonable modification?

A reasonable modification is a change or exception to a policy, practice, or procedure which allows people with disabilities to have equal access to programs, services and activities.

Reasonable modifications must always be related to the individual's disability.

What is the process for requests?

Whenever possible, requests for reasonable modifications shall be made and determined in advance. An advance request for reasonable modification can be sent to:

Bis-Man Transit 3750 East Rosser Ave

Bismarck, ND 58501

Telephone: 701.258.6817 Email: info@bismantransit.com

The request shall include:

- Your contact information;
- A description of what you need in order to use a Bis-Man Transit service; and
- What changes or modifications you believe would be necessary to provide you full access to Bis-Man Transit's services.

Bis-Man Transit will use its best efforts to make a response as soon as practical. In some instances, additional information will be necessary to process the request. Please ensure your contact information is included with your request.

What is the process for making on the spot requests?

Bis-Man Transit understands it may not be possible for a reasonable modification request to be made and determined in advance. In these instances, please request a reasonable modification with a Bis-Man Transit operator at the time of issue. A response to an *on the spot request* will be made at the time of the request. Responses to *on the spot requests* can include: granting the request, denying the request, or referring the passenger to Bis-Man Transit management for further processing. Operators will generally seek assistance from Bis-Man Transit management during these instances via the two-way radio.

For what reasons may Bis-Man Transit deny a reasonable modification request?

Bis-Man Transit may deny a reasonable modification request, whether made in advance or on the spot, for the following reasons:

1. Granting the request would fundamentally alter the nature of Bis-Man Transit's services, programs or activities;
2. Granting the request would create a direct threat to the health or safety of others;
3. The individual with a disability is able to fully use the entity's services, programs, or activities for their intended purpose without the need of a modification; and/or
4. Granting the request would cause Bis-Man Transit undue financial or administrative burden.

If a request is denied, Bis-Man Transit will act to the maximum extent possible to ensure the individual receives Bis-Man Transit's services or benefits.

What are examples of reasonable modifications Bis-Man Transit generally will grant?

Bis-Man Transit will generally grant the following reasonable modification requests for individuals with disabilities:

- A request from a passenger whom has diabetes (or another medical condition) to eat or drink aboard a vehicle in order to avoid adverse health consequences so long as the drink is in a spill proof container and the food is a small snack that cannot cause any spills;
- A request for transit personnel to handle fare media when the passenger with a disability cannot pay the fare by the generally established means; for instance, when the passenger cannot reach or insert a fare into the fare box themselves;
- A request from a wheelchair user to board a vehicle separately from his or her device (if the individual is capable of doing so) when the occupied weight of the device exceeds the design load of the vehicle lift.

This list of examples is neither exhaustive nor exclusive. Passengers with disabilities are encouraged to contact Bis-Man Transit with specific reasonable modification requests.

It is Bis-Man Transit's goal to operate a safe, efficient, and effective transportation system that provides mobility and accessibility to persons with disabilities.

The request should be as specific as possible and include information on why the requested modification is needed in order to allow the individual to use Bis-Man Transit services. Bis-Man Transit will make every effort to communicate determinations on requests for modifications in advance of when the service will be needed verbally or in writing.

There are several ways to request a modification/accommodation form pursuant to the Americans with Disabilities Act.

Access the form online: Complete and submit the Reasonable Modification Request Form

Mail: Complete the Reasonable Modification Request Form, print it and mail to: Bis-Man Transit, Attention Deidre Hughes, 3750 East Rosser Ave, Bismarck, ND 58501

Fax: Complete the Reasonable Modification Request Form, print it and fax to 701.258.6752.

Pick up a form: Bis-Man Transit, 3750 East Rosser Ave, Bismarck, ND 58501

Email: Email Deidre Hughes; Executive Director at info@bismantransit.com.

To obtain information about procedures and/or how to file a complaint, contact Deidre Hughes; Executive Director, by one of the methods listed below:

Email: info@bismantransit.com

Phone: 701.258.6817

Fax: 701.258.6752

Reasonable Modifications requests will be processed in the following manner:

All requests will be logged into a Reasonable Modification/Accommodation spreadsheet noting the requester's name, date, contact information, specific modification request, outcome, and requester date of notification.

Individuals requesting modifications will be asked to supply sufficient detail within the request so that agency staff may effectively evaluate the request. Individuals are not required to use the term "reasonable modification" when requesting modifications or accommodations.

All requests for modifications (reasonable or otherwise) will be reviewed and evaluated by the Bis-Man Transit administrative staff.

All reasonable modification requests will be acknowledged within three (3) business days of receipt. The resolution and response to the requestor will be made timely, within fifteen (15) business days and the response must explain the reasons for the resolution. The response must be documented in the Reasonable Modification/Accommodation log.

Any requests requiring more than fifteen (15) business days to resolve must be reviewed at the Board of Directors level and documented as to why the resolution requires additional time to be completed.

Bis-Man Transit is committed to providing you with safe and reliable transportation services and we want your feedback. Please use this form for suggestions, compliments, and complaints. You may also call us at 701.258.6817, visit the Bis-Man Transit facility at 3750 East Rosser Avenue, Bismarck, ND 58501, or contact us by email or U.S. postal mail at the addresses below. Please make sure to provide us with your contact information in order to receive a response.

**Bis-Man Transit, 3750 East Rosser Avenue, Bismarck, ND 58501, 701.258.6817,
info@bismantransit.com.**



REASONABLE MODIFICATIONS REQUEST FORM

Please complete this form to request a reasonable modification of Bis-Man Transit bus services. Submit the completed form to Bis-Man Transit via FAX at 701.258.6752, via mail at 3750 East Rosser Ave, Bismarck, ND 58501 or via email at info@bisantransit.com.

Date: _____ Name: _____

Phone Number: _____ Email: _____

Address: _____

Description of Request: _____

Location & Routes Used: _____

Are you able to ride without this modification?: _____

Comments or assistance with a reasonable modification request can be sent to info@bisantransit.com or call 701.258.6817.



E

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

February 22, 2024

TO: Bis-Man Transit Board of Directors

FROM: Deidre Hughes, Executive Director

SUBJECT: Policies and Procedures Update

BACKGROUND: The current Policies and Procedure document was put in place in November 2023.

DISCUSSION: Staff participated in training for the upcoming Triennial Review and noted outdated terminology was referenced in the current plan - *Section 5.5 - Use of Ramp/Lift and Securement Inside Paratransit Buses*. The FTA Contractors Manual (2023) was used for reference when developing the changes.

RECOMMENDATION: Bis-Man Transit staff recommends acceptance of the proposed Policies and Procedures update.



3750 E Rosser Avenue,
Bismarck, ND 58501



info@bismantransit.com



701.258.6817



www.bismantransit.com

Meeting Our Customer's Travel Needs

This guide provides brief information about Bis-Man Transit (door-to-door paratransit service) and Capital Area Transit (fixed route service). It was intended to give service providers resources they need when they refer people to use public transportation services in the Bismarck, Mandan, and Lincoln area. If you have questions about our paratransit or fixed-route bus service after reviewing this guide, please call our Bis-Man Transit office at 701.258.6817.

Bis-Man Transit Paratransit Service

For eligible riders who have a disability that prevents them from making some or all of their trips on the fixed-route system, Bis-Man Transit offers a shared ride, door-to-door service called paratransit. This service is sometimes called "ADA Paratransit Service" because it is provided to meet the requirements of the Americans with Disabilities Act of 1990 (ADA) and ensures all individuals have the opportunity to use public transportation services.

Paratransit schedules and provides service to ADA paratransit eligible persons at any requested time on a particular day in response to a request for service made at least one day in advance. Hours of operation for paratransit are Monday to Saturday from 5:30 AM to 12:00 AM; Sunday from 7:30 AM to 2:30 PM.

Capital Area Transit Fixed Route Service

Capital Area Transit (CAT) is committed to providing transportation services that can be used for all of our customers. Fixed-route buses operate on set routes throughout the Bismarck and Mandan communities. All fixed-route buses have lifts or are low-floor with a kneeling feature to better serve riders who use wheelchairs or have difficulty getting up and down the vehicle steps. Our fixed-route vehicles are 100% accessible.

For everyone's benefit and to comply with federal requirements, drivers announce route timing points and transfer points to help riders recognize their bus stop or point of transfer. A limited number of seats are usually available near the entrance of the bus for persons who have mobility concerns. Reserved spaces with tie-down straps and drivers assistance are available for riders who use wheelchairs.

Persons with disabilities and seniors age 65 or older may show their Bis-Man Transit membership card or other approved verification of age or disability to receive free fares on the CAT. If someone has a verifiable disability and would like a Bis-Man Transit paratransit ID card to receive free fare, he or she needs to fill out and submit the Bis-Man Transit application which can be obtained by calling 701.258.6817 or found online at www.bismantransit.com. We encourage our customers with disabilities and seniors to take advantage of the flexibility, independence, and no cost option that our fixed route services provide.

Students in grades K-12 and college, Medicare card holders, and Veterans can receive the reduced fare rate. Proper identification such as a form of school identification is required for students, and presentation of a Medicare card or military ID is required.

For route and schedule information, travel training information, or any questions you may have about using the CAT bus fixed route bus services, call 701.258.6817 or visit our website at www.bismantransit.com.

TABLE OF CONTENTS

Section One: Guide Introduction	5
Section 1.1 – Purpose of this Guide	5
Section 1.2 – References to Federal Regulations	5
Section 1.3 – Statement of Non-Discrimination	5
Section 1.4 – Accessible Formats	5
Section 1.5 – Paratransit Application Process	5
Section Two: Transportation Services	7
Section 2.1 – Service Description	7
Section 2.2 – Service Hours	7
Section 2.3 – Service Area	7
Section 2.4 – Paratransit Trip Purpose	7
Section 2.5 – Rider Fares	8
Section 2.6 – Refund Policy	9
Section 2.7 – Rider Courtesy and Conduct	10
Section 2.8 – Paratransit Driver Responsibilities.....	12
Section 2.9 – CAT Driver Responsibilities	14
Section Three: Paratransit Eligibility	15
Section 3.1 – Paratransit Eligibility Criteria and ADA Paratransit Eligibility	15
Section 3.2 – Eligibility for Discount Fare on Fixed-Route CAT Buses	16
Section 3.3 – Visitors	16
Section 3.4 – Temporary Disabilities	16
Section 3.5 – Conditional Disabilities	16
Section 3.6 – Eligibility Process for Persons with Disabilities.....	16
Section 3.7 – Application Form	17
Section 3.8 – Appeal Procedure	17
Section Four: Paratransit Trip Reservations Procedures.....	19
Section 4.1 – Reservations	19
Section 4.2 – Advance Notice Requirement.....	19
Section 4.3 – Reservation Procedures.....	19
Section 4.4 – Reservation Cancellation	20
Section 4.5 – Subscription Service.....	20
Section 4.6 – Same Day Request for Early Pickups.....	20
Section Five: Paratransit Pickup and Travel Procedures	21

Section 5.1 – Pickup Procedures	21
Section 5.2 – Companions	21
Section 5.3 – Escorts.....	21
Section 5.4 – Origin to Destination Service	21
Section 5.5 – Use of Ramp/Lift and Securement Inside Paratransit Buses	22
Section 5.6 – Capacity Constraints	23
Section 5.7 – Service Animals and Life Support Equipment	23
Section 5.8 – Prohibited Activities.....	24
Section 5.9 – Animals	24
Section 5.10 – Children.....	24
Section Six: Paratransit Trip Cancellations and Denials	25
Section 6.1 – Cancellation Procedures	25
Section 6.2 – Penalties Imposed for “No-Shows”	25
Section 6.3 – Refusal of Service.....	26
Section 6.4 – Condition of Service.....	27
Section Seven: Other Information	28
Section 7.1 – Travel Training	28
Section 7.2 – Accessible Phone Communications	28
Section 7.3 – Public Information	28
Section 7.4 – Privacy Regarding Medical Information.....	28
Section 7.5 – Complaints and Compliments.....	28
Section 7.6 – Driver Training	29
Section 7.7 – Vehicles.....	29
Section 7.8 – Reporting Abuse	29
Section Eight: Civil Rights Policies	30
Section 8.1 – Title VI Plan/Complaint Process.....	30
Section 8.2 – Reasonable Modification Plan/Complaint Process.....	49
Section 8.3 – ADA Complaint Process	53
<i>Section 6.3 Addendum – Refusal of Service.....</i>	56
<i>Section 2.6 Form</i>	57

SECTION 1: GUIDE INTRODUCTION

Section 1.1 - Purpose of this Guide

This document outlines the operational guidelines for the Bismarck-Mandan and Lincoln area paratransit and fixed- route services. The paratransit service is provided for individuals with disabilities and senior citizens age 70 or older whose transportation needs cannot be met by the CAT Bus fixed-route service. For those individuals able to use or access the city bus, Capital Area Transit provides fully accessible fixed-route bus service throughout the cities of Bismarck and Mandan.

Section 1.2 - References to Federal Regulations

The Bis-Man Transit paratransit and fixed-route services are funded in part through federal, state, and local governments. Operational guidelines comply with federal, state, and local regulations and conform to the applicable provisions of the Americans with Disabilities Act of 1990 (ADA) and Regulation 49 CFR Parts 37.

References will be made throughout this document to specific regulations to assist in updating guidelines as regulations are modified.

Section 1.3 - Statement of Non-Discrimination

[ADA Regulation 49 CFR 39]

The Bis-Man Transit Board does not discriminate against any individual on the basis of race, color, creed, religion, national origin, gender, marital status, status with regard to public assistance, disability, age or familiar status in the provision of public transportation services.

Section 1.4 - Accessible Formats

The information contained in this guide, information concerning the eligibility determination process, application materials, and determinations concerning eligibility are available in accessible formats upon request by contacting the Bis-Man Transit office at 701.258.6817. Information will be provided in a format a person can use according to their disability.

Section 1.5 - Paratransit Application Process

Paratransit service is available to all Bismarck, Mandan, University of Mary, and Lincoln residents eligible for the service. Trips must be located within the predetermined service area. (ADA eligible out-of-town riders see Section 3.3).

To become certified to schedule and ride paratransit, the applicant must obtain and fill out an application by printing it from www.bismantransit.com, receiving a printed application from the Bis-Man Transit office by calling 701.258.6817, or stopping at the Bis-Man Transit office at 3750 E Rosser Ave in Bismarck. Electronic applications are accepted via e-mail at info@bismantransit.com.

The application is to be completed in its entirety by the applicant. The appropriate human service professional listed by the applicant will then be contacted to verify the applicant's disability, if applicable.

- Applicants wishing to be certified on ADA basis must complete the entire application.

- Individuals over 70 wishing to be qualified based on age must complete the general information portion of the application and provide one of the following:
 - Copy of a government issued photo ID
- All applications must be signed by the applicant.

The completed application form and additional documentation of the applicant's age or disability must be mailed or faxed to:

Bis-Man Transit
3750 E Rosser Ave
Bismarck, ND 58501
Fax Number: 701.258.6752

Electronic applications may be e-mailed to:

info@bismantransit.com

Applicants can also bring the application and supplemental documentation to the Bis-Man Transit office at 3750 E Rosser Ave in Bismarck and office staff will make a copy of the supplemental document for the applicant to include with the application form.

Bis-Man Transit staff will evaluate the information on the application. If an application is approved, the new rider will be notified by mail and will be issued a rider verification card. The rider verification card contains the following information:

- Assigned Bis-Man Transit rider ID number
- Name of the eligible rider
- Address of the eligible rider
- Expiration date of paratransit eligibility. For Unconditional Eligibility, this is 3 years from the certification date

Each applicant's eligibility will be determined according to guidelines in Section 3: Paratransit Eligibility.

Riders are encouraged to carry their Bis-Man Transit ID card at all times.

In the case of a temporary disabling condition, a temporary ID card will be provided with the date of the card expiration.

If an application is not approved, the applicant will be notified and he or she will have an opportunity to provide additional information for reconsideration by Bis-Man Transit.

SECTION 2: TRANSPORTATION SERVICES

Section 2.1 - Service Description

[ADA Regulation 49 CFR 37.167(e)]

All Capital Area Transit fixed-route buses are accessible through provision of lifts or ramps (low floor buses).

Bis-Man Transit Paratransit is required to provide door-to-door transportation service on a reservation basis for individuals with disabilities who are ADA paratransit eligible and unable to utilize CAT fixed-route bus service independently (refer to section 3.1). Paratransit utilizes buses with lifts for accessibility. Riders are not able to request a certain vehicle. Considerations for a vehicle request will be considered only if a physician submits a written, detailed description why a rider needs special provisions. This does not guarantee that the rider request will be granted.

Section 2.2 - Service Hours

[ADA Regulation. 49 CFR 37.131 (e)]

The CAT bus fixed-route system's route times are listed on the route maps and on the websites, www.thecatbus.com and www.bismantransit.com.

The CAT bus doesn't run on Sundays or the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, or Christmas Day.

Paratransit door-to-door service is available and operates Monday to Saturday from 5:30 AM to 12:00 AM; Sunday from 7:30 AM to 2:30 PM. Rides need to be scheduled at least the day prior by calling the scheduling dispatch assistants at 701.258.6817 (select option 1) between the hours of 8:00 am and 5:00 pm Monday to Saturday; 8:00 AM and 2:30 PM on Sunday. Trips may also be scheduled by leaving a voice message with dispatch from 2:30 PM to 5:00 PM on Sundays.

Section 2.3 - Service Area

[ADA Regulation 49 CFR 37.131 (a)]

The CAT bus fixed-route service operates along set routes throughout the Bismarck and Mandan communities.

Paratransit door-to-door service serves riders within the cities of Bismarck, Mandan, and Lincoln and also serves University of Mary.

Section 2.4 - Paratransit Trip Purpose

[ADA Regulation 49 CFR 37.131 (d)]

No restrictions or priorities are imposed based on trip purpose for rides given by Bis-Man Transit paratransit. Paratransit is not an ambulance service and does not provide emergency medical transportation. Drivers are prohibited from providing delivery services.

Section 2.5 - Rider Fares

ADA Regulation 49 CFR 37.131 (c)]

CAT Bus

The rates for The CAT Bus fixed route service are as follows (January 2017):

- \$1.50 one-way
- \$.75 one students in grades K-12 and college, Medicare card holders and Veterans (verification required to receive discounted rate)
- Free for children age 4 and under when riding with an adult
- Free transfers
- \$6.00 for 1-day pass for adults
- \$3.00 for 1-day pass for students in grades K-12 and college, Medicare card holders and Veterans (verification required to receive discounted rate)
- \$36.00 for 30-day pass for adults
- \$24.00 for 30-day pass for students in grades K-12 and college, Medicare card holders and Veterans (verification required to receive discounted rate)
- Seniors 65 and older, as well as certified paratransit riders may ride the CAT for free at any time (verification required to receive discounted rate)

Each one-way fare listed above is for a one-way complete trip. Once a rider disembarks from the vehicle or arrives at a destination, a trip is completed. Transfers are free at the following locations: Bismarck State College, Mapleton Avenue, Front Avenue, and Dan's Supermarket Mandan.

When transferring, riders must board the next bus going toward their final destination.

CAT Bus fareboxes accept cash and coins. The fareboxes do not return change and drivers do not carry change. If riders do not pay with exact change, they will be issued a ticket with the remaining balance.

The ticket must be used on the CAT Bus within one year of its issue date. Riders must pay the fare or feed their 30-day pass into the farebox immediately when they enter the bus. Drivers are not permitted to access a rider's personal wallet, purse, or backpack.

30-Day passes and 1-Day passes can be purchased from CAT Bus drivers. All passes can also be purchased at the Bis-Man Transit office at 3750 E Rosser Ave in Bismarck. If a rider purchases a pass from a CAT Bus driver, he or she must tell the driver what pass is needed BEFORE money is fed into the farebox. If an agency is purchasing a large quantity of these tickets, it is advised that the agency call ahead and the office staff will get them ready for pickup.

Paratransit

The fare for each one-way trip on paratransit is \$3.00 (January 2017). Exact fare is required in the form of cash or change. Drivers do not have change and they are not permitted to access a rider's personal wallet, purse, or backpack. Punch cards in \$12 increments are available for purchase at the following locations:

- Bis-Man Transit office (Cash, Credit/Debit Card, or Check)
- Dan's Supermarket Customer Service Counters (North, South, East, West, and Mandan)
- Cash Wise Foods (North and South) Customer Service Counter
- Ticket can also be purchased by phone with a credit/debit card by calling the Administrative Office at 701.258.6817. Tickets may be mailed or picked up in the office.
- Diminishing balances may be refilled via Cash, Credit/Debit Card, or Check.

The following conditions apply to punch card sales:

- Punch cards cannot be redeemed for cash under any circumstances
- Lost or stolen cards will not be replaced
- Punch cards are valid for use on paratransit only

Paratransit personal care assistants with a responsibility to help the rider may ride free of charge (Section 5.3 - Paratransit Escorts). Bis-Man Transit members age 8 and under cannot ride alone and must have an escort (Section 5.10 - Children). Children under the age of 7 ride free when accompanied by an eligible adult rider. Eligible riders are allowed one companion with additional companions on a space available basis. Companions are charged the same rate as the Bis-Man Transit member, which is \$3.00 each way.

Fares cannot be or billed at a later date without the approval of the Bis-Man Transit Executive Director. All fares are subject to change for both paratransit and the fixed-route bus systems.

Section 2.6 – Refund Policy

CAT Bus

All CAT Bus passes are non-refundable. Bis-Man Transit does not replace or offer refunds for lost, stolen, or unused passes. If a bus pass is damaged and not functioning properly, the administrative staff will evaluate each request to determine if a replacement pass will be issued.

No refund or replacement ticket will be issued for lost, destroyed, or stolen passes. Bis-Man Transit will not refund due to errors in timetables, inconvenience or damage resulting from missed stops, delayed, canceled, or missed buses, failure to make connections, or equipment shortages. All customers must have a pass in their possession at the time of travel.

Paratransit/Demand Response

Bis-Man Transit will issue paratransit/demand response punch tickets and diminishing balance refunds in the event of the death or relocation of the rider. A copy of the death certificate must be provided in the event of death. For riders relocating, an updated address must be provided.

Punch Tickets can only be refunded if the punch card is unused and undamaged.

If the rider is deceased, diminishing balance funds may be requested up to 60 days from the time of death with a copy of the certified death certificate. If this is not requested within 60 Days, Bis-Man Transit will absorb the remaining balance.

All refunds will be issued by check. No cash refunds will be provided under any circumstance. Refund requests may be submitted in person at the Transit Facility or via mail. Direct all mailed requests to:

Bis-Man Transit Board
3750 East Rosser Ave
Bismarck, ND 58501

The refund request form can be found on page 56.

Note: All tickets submitted for refund or exchange are subject to review by Bis-Man Transit management. Any ticket deemed to be counterfeit or stolen will be confiscated and the requestor denied any of the above options. Refund requests may take up to two weeks.

Section 2.7 - Rider Courtesy and Conduct

Bis-Man Transit and Capital Area Transit have lists of rules and courtesy to ensure the safety of all riders and drivers. Riders, their escorts, or companions traveling with riders, who engage in physical abuse or cause physical injury to another rider or driver, or who engage in other illegal activities, may be subject to immediate suspension from riding paratransit and/or CAT buses. They also may be subject to possible criminal prosecution, which may include fines.

Riders who engage in an activity that disrupts the safe or effective operation of paratransit or CAT Bus services, may be subject to a suspension of service. If a rider is disruptive, Bis-Man Transit reserves the right to require that an escort travel with the rider as an option instead of service suspension.

Paratransit

- Riders shall maintain appropriate, reasonable personal hygiene.
- Shirts and shoes must be worn.
- No eating, drinking, or smoking in vehicles.
- Smoking is not allowed within 20 feet of Bis-Man Transit doors and windows.
- Make reservations a minimum of one day in advance.
- Be ready at pickup location and be on time.
- Call if the vehicle has not arrived by the end of the "30-minute window"
- Call to cancel unneeded rides at least 30 minutes prior to the scheduled pickup time to avoid a "no show."
- Pay the correct fare in the exact amount or with a pre-purchased punch card.
- Wear seat belts.
- Avoid distracting the driver or annoying other riders with inappropriate behavior.
- Head, arms, and other body parts must be kept inside the vehicle
- No abusive, threatening, or obscene language or actions.
- No physical abuse of another rider or the driver.
- Baby strollers and walkers must be folded and stowed to not block the aisle or cause injury to persons on the vehicle.
- Parents must control children.
- Expect "shared-ride" service. Others may be picked up after you or dropped off before you reach your destination.
- No littering in the vehicle.
- Objects must not be thrown from a vehicle window.

- No riding with open containers of alcohol or illegal drugs.
- No riding while under the influence of alcohol or illegal drugs if the rider's behavior disrupts the driver or other riders.
- No deliberate fare evasion.
- No petting guide dogs or other service animals without the permission of the owner.
- No playing of radios, mp3 players or other multimedia devices (without headphones) and no other noisy equipment while on board.
- No operating or tampering with any vehicle equipment.
- Dangerous weapons are prohibited on Bis-Man Transit vehicles.
- Federal regulations prohibit the transportation of flammable or explosive materials on paratransit vehicles.
- Packages are limited to what the rider can carry in one trip and contain within their seating area on the Bis-Man Transit vehicle.

CAT Bus

- Riders shall maintain appropriate, reasonable personal hygiene.
- Shirts and shoes must be worn.
- Pay the correct fare in the exact amount or with a 1- or 30-day pass.
- Keep arms, legs, and personal items out of the aisles.
- Do not stand in the stairwells.
- No eating, drinking, and no open containers on the bus.
- No smoking on the bus or within 20 feet of bus doors and windows.
- No multimedia devices without headphones.
- No rollerblades or in-line skates may be worn on the bus.
- Animals must be contained to a cage on CAT buses (except service animals)
- Please limit yourself to 2 packages.
- Strollers and walkers must be folded and stored out of the aisles.
- Parents must control children.
- No littering in the vehicles or shelters.
- No riding with open containers of alcohol or, with illegal drugs.
- No riding while under the influence of alcohol or illegal drugs if the rider's behavior disrupts the driver or other riders.
- No operating or tampering with any vehicle equipment.
- Dangerous weapons are prohibited on CAT buses.
- You may ask your driver questions pertaining to the routes while on the bus, however, please refrain from carrying on a conversation with the driver while the bus is in motion.
- Avoid distracting the driver or annoying other riders with inappropriate behavior.
- Threatening behavior or vulgar language may result in suspension or rider being asked to leave the bus.
- Drivers have the right to refuse service.

Suspension of Service Due to Prohibited Behaviors

Any illegal, violent or disruptive behavior as described in the above section shall result in an immediate seven (7)-day suspension from service. After the suspension has begun, the manager of the transit provider shall review the particulars of the incident. Upon the conclusion of this review, the suspension can be either sustained or lifted immediately. All offenses will be documented by the transit provider.

- | | |
|---------------------------------------|----------------------------------|
| 1. First Offense | (7)- Day suspension from service |
| 2. Second Offense in 12-month period | (3)-Week suspension from service |
| 3. Third Offense in a 12-month period | (8)-Week suspension from service |

Appeals

Appeals to any suspension shall be made in writing (either by mail or e-mail) sent to the Executive Director at the Bis-Man Transit Facility (3750 E Rosser Ave, Bismarck, ND 58501 or info@bismantransit.com). The appeal shall include the words: "Appeal of Transit Suspension." Any appeal must be filed within 30 days of the date of suspension to be considered. Bis-Man Transit shall process any appeal received within 30 days of receipt, and may contact the appellant and others in conducting the review. If the appellant does not provide the requested additional information to Bis-Man Transit, the transit provider can administratively close the appeal. The appellant may choose to no longer pursue the appeal at any time during this process. When Bis-Man Transit has concluded its review, it will issue a letter either modifying, affirming or erasing the suspension.

Section 2.8 - Paratransit Driver Responsibilities

Bis-Man Transit has a list of rules to ensure the safety of drivers and riders and to provide a positive riding experience. Drivers will adhere to the same standards of common courtesy and personal hygiene as those required of the riders.

- Treat riders with courtesy.
- Be uniformed appropriately.
- Stay within sight of their vehicle at all times.
- Maintain the assigned service schedule for the convenience of all riders.
- With permission, assist riders when entering or leaving the vehicle.
- Provide rider assistance when instructed by dispatcher.
- On request, the driver will assist riders between the vehicle and up to the entrance of a house, apartment building, or other building.
- Drivers are allowed to carry no more than what they can carry in one trip per paratransit eligible rider (maximum total weight of 25 pounds).
- Assure seat belts and all mobility devices are properly secured.
- Follow the guidelines for pick up and drop offs.
- Maintain radio contact with dispatch.
- Collect fares for riders' trips as appropriate.
- Follow all safety protocols put in places by Bis-Man Transit.

On request, the driver will assist passengers between the vehicle and entrance of a house, apartment building or other building. Such assistance must be requested in advance by notifying the scheduler when you make your reservation. If the passenger has indicated on their application that they require driver assistance regularly, this shall be indicated on the driver's schedule for all future trips.

Driver assistance ends when the driver has assisted the passenger in getting through the main door of the building. This includes assistance through a short entryway into the climate-controlled portion of the building. If the passenger needs additional assistance beyond the main door, they must have someone meet them at the door or have a personal care attendant ride along. The driver will not assist customers in wheelchairs into buildings that are not accessible (other than opening doors), nor will drivers push wheelchairs through areas that have not been cleared of snow.

If requested, the driver will assist with either two grocery-size bags or one small collapsible cart. The driver will not bring packages past the first door. Space for packages is limited. The rider must be able to carry their packages in one trip and the packages must be safely secured while on the vehicle. Guests and personal care attendants are expected to assist the passenger.

Bis-Man Transit reserves the right to refuse service or load at a location deemed as unsafe for the passenger, driver or the vehicle/equipment, including areas not cleared of snow. The driver will attempt to find an alternate loading point which is deemed to be safe by the driver and acceptable by the passenger. The driver must be able to keep the vehicle in sight at all times, and cannot assist passengers to an entrance that hinders this.

Service will be impacted during a snow event. The drivers will only travel on roads that are reasonably clear of snow. If a passenger is leaving their residence during a snow event and plans to return to that residence that day, it is the responsibility of the passenger to arrange for snow removal on their property so there is a clear path for the driver to assist the passenger to the door. The driver is not to shovel a path to the door for the passenger.

If a major snow event is probable, service may be cancelled by Bis-Man Transit. Passengers are to listen to local media to find out if service has been canceled. If it appears during the afternoon that service may be canceled the next day, staff may contact riders to determine an appropriate course of action.

Ramps to the passenger's door must be safe for both the passenger and the driver. The passenger is responsible for arranging for the ramp to be free of snow and ice.

Passengers unable to independently conduct themselves inside an origin/destination building lobby must have someone meet them at the door or have a personal care attendant (PCA) ride along. If the destination building is locked, a PCA is not along, and no one is available to meet the customer, the driver, after first receiving approval from the Dispatcher, may return the customer to the place of origin at the next available trip. If this is not an option, the rider will be returned to the bus and remain on board until the driver receives instructions from the Dispatcher. The driver will continue completing scheduled trips so as not to delay another passenger's service. Once Dispatch makes contact with the rider's guardian/PCA, the driver will be instructed to return to the drop-off point as their trip schedule permits.

Bis-Man Transit will track policy violations, specifically those that result in delays for other riders and overall system productivity. Violations prior to the policy approval will not be assessed.

On the day the rider violates the policy, the following progressive action will be taken:

- First violation (1st ride) — A warning letter will be issued advising the rider/guardian of the policy violation and informing them of the next steps that may be taken.
- Second violation (2nd ride) — Customer will receive a seven (7) day suspension.
- Third violation (3rd ride) — Customer will receive a fourteen (14) day suspension.
- Fourth violation (4th ride) — Customer will receive a twenty-one (21) day suspension.
- Subsequent violations will result in an additional seven (7) day suspension. (5th+ ride)

Violations will be tracked on a **sixty (60) day** rolling calendar period.

Appealing a Warning or Suspension

Customers are given the opportunity to appeal a suspension of service with Bis-Man Transit. If any customer using the Bis-Man Transit system has a concern or disagreement, they are asked to submit their issue in writing. All written appeals will be investigated and a response will be issued within five (5) working days.

If the customer is not satisfied with the response received from the Administrative office, they have the right to appeal the decision to the Bis-Man Transit Board of Directors at their next scheduled meeting. After the Board of Directors has reviewed the situation, they will provide a written response within ten (10) working days. If the customer is not satisfied, they have the right to submit a complaint to the Federal Transit Administration at 1200 New Jersey Avenue, SE, Washington, DC 20590 United States.

Section 2.9 - CAT Driver Responsibilities

Bis-Man Transit has a list of rules to ensure the safety of drivers and riders and to provide a positive riding experience. Drivers will adhere to the same standards of common courtesy and personal hygiene as those required of the riders.

- Treat riders with courtesy.
- Be uniformed appropriately.
- Stay within sight of their vehicle at all times.
- Maintain the assigned service schedule for the convenience of all riders.
- Assist riders with trip planning questions, while maintain safe operation.
- Follow all safety protocols put in places by Bis-Man Transit.

Drivers are NOT permitted to:

- Enter a rider's residence or other buildings
- Access a rider's personal wallet, purse, or backpack
- Perform any personal care assistance for riders
- Lift or carry riders or wheelchairs up or down steps
- Call riders to pick them up earlier or later than scheduled (all drivers must only use the dispatcher to communicate with riders)

SECTION 3: PARATRANSIT ELIGIBILITY

Section 3.1 - Paratransit Eligibility Criteria and ADA Paratransit Eligibility

Bis-Man Transit paratransit service is intended to provide transportation services to individuals with disabilities and seniors age 70 or older who are unable to independently use the fixed-route CAT Bus system. To be eligible to use paratransit, riders must be considered eligible based on the application process.

Paratransit eligibility is based on a functional, rather than medical model. Persons are not qualified or disqualified on the basis of a specific diagnosis or disability. An individual will be certified as paratransit eligible if there is any part of the CAT fixed-route system in the designated service area which cannot be used or navigated by that individual because of a disability.

The three categories of ADA paratransit eligibility established by the federal government are listed below:

Category 1 - Persons unable to board, ride, or disembark fully accessible fixed-route services

Any individual with a disability who is unable, as the result of a physical or mental impairment, including a visual impairment) and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and unable by individuals with disabilities. [37.123 (e)(1)]

An example of eligibility under this category includes persons with mental disabilities or vision impairments who cannot "navigate the system" or otherwise cannot physically use fixed-route services. This would include people with physical disabilities who cannot stand on a bus, get on or off the lift, or proceed from the wheelchair securement area without assistance except as provided by the driver or other employee of the service.

Category 2-Persons unable to board, ride, and disembark even if the vehicle is accessible (equipped with a ramp or lift)

Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride, and disembark from any vehicle that is readily accessible to and unable by individuals with disabilities if the individual wants to travel on a route of the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route. [37.123 (e)(2)]

Eligibility under this category depends on the accessibility of vehicles and routes. A person is eligible for paratransit service if the fixed route on which they want to travel is not yet accessible.

- An individual is eligible for paratransit if a vehicle's lift or boarding device could not be deployed at the stop which they want to use
- An individual is eligible if they use a "common wheelchair" but cannot be served by the fixed-route system because the lift on the vehicle they need fails to work
- All Capital Area Transit vehicles are 100% accessible

Category 3 - Persons unable to travel to the boarding location or from the disembarking location.

Any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

[37.123(e)(3)]

Environmental conditions and architectural barriers not under control of the public entity, do not, when considered alone, confer eligibility. If, however, travel to or from a boarding location is prevented when these factors are combined with the person's specific impairment-related condition, paratransit service must be provided. Examples of architectural and environmental factors that, in combination with certain disabilities, could prevent travel include: lack of curb cuts, the distance from the stop to the trip origin or destination, snow or ice, temperature extremes, major intersections, or temporary construction projects.

Section 3.2 - Eligibility for Discount Fare on Fixed-Route CAT Buses

The paratransit ID card issued by Bis-Man Transit entitles an individual to ride the fixed-route CAT Bus System (Capital Area Transit) for free. The rider must show the Bis-Man Transit membership card to the driver when boarding the bus. (Refer to section 3.5 - Eligibility Process to apply for paratransit certification)

Section 3.3 - Visitors

[ADA Regulation 49 CFR 37.127]

Individuals certified as eligible by another public entity that claim to be "ADA Eligible," are presumed to be eligible and will be similarly provided service. Any limitation/condition placed upon a certification by another public entity will be honored for paratransit services. Verification of this eligibility may be required.

Section 3.4 - Temporary Disabilities

An individual with a temporary disability that meets paratransit eligibility criteria will be issued a temporary Bis-Man Transit paratransit ID card upon completion of the Bis-Man Paratransit Application. An example of a temporary disability is a broken leg.

Section 3.5 - Conditional Disabilities

An individual with a conditional disability that meets paratransit eligibility criteria will be issued a "Conditional" Bis-Man Transit paratransit ID card upon completion of the Bis-Man Paratransit Application. An example of conditional disability is difficulty with mobility in temperatures below freezing.

Section 3.6 - Eligibility Process for Persons with Disabilities

[ADA Regulation 49 CFR 37.125]

Applicants must submit a completed, written application to Bis-Man Transit at 3750 E Rosser Ave, Bismarck, ND 58501. Applications may be faxed to 701.258.6752 or e-mailed to info@bismantransit.com.

For the purpose of determining eligibility for paratransit services, the individual applying for services must fill out the paratransit application in its entirety.

Bis-Man Transit is responsible for reviewing applications and determining eligibility. A written response stating the determination of eligibility will be mailed to the applicant within 21 calendar days of receipt of a completed application and appropriate provider verification. Determination of ineligibility will include reasons for the finding.

Approved riders will be issued a Bis-Man Transit membership card stating they are eligible for paratransit. This membership card shall include the following:

- Assigned Bis-Man Transit rider ID number
- Name of the eligible rider
- Address of the eligible rider
- Expiration date of rider eligibility. For Unconditional Eligibility, this is 3 years from the certification date.

Rider's must complete the recertification application every three years to ensure Bis-Man Transit has current contact information.

Section 3.7 - Application Form

The following contents of the Bis-Man Transit Application for Transit Services will be utilized by Bis-Man Transit in determining and notifying individuals of eligibility for paratransit service:

- General Information (contact, date of birth, emergency contact information)
- "About Your Disability"
- "Getting to and From the Bus Stop"
- "Tell us about what you can do & what affects your abilities"
- "Using the fixed route bus"

Applicants age 70 or older must submit a copy of a state issued identification card. Applicants with a disability must provide contact information for Health Care Professional who will be able to verify the application. Bis-Man Transit staff will contact the provider directly.

Section 3.8 Appeal Procedure

A determination of eligibility will be made by Bis-Man Transit within 21 days of the completed application process. NOTE: Applications are not considered complete until the professional verification has been received and if required an interview is completed. Bis-Man Transit will notify you in writing with the decision of your eligibility status. If it is determined that you are able to use the fixed route service and are found not eligible for paratransit service, Bis-Man Transit will provide explanation for the determination. If you are determined "Not Eligible", or are dissatisfied with your eligibility type, you may appeal the decision. A written appeal to Bis-Man Transit must be received within 60 calendar days of the written eligibility notification letter.

Submit a letter stating your wish to appeal the decision that was made. You may include information as to why you feel you were incorrectly denied (or limited) for ADA Paratransit service and attach copies of

any other information you feel supports your appeal, though this is not required. A hearing date will be set for within thirty (30) days of receipt of the appeal request.

The decision of the appeals committee will be given within thirty (30) days of the hearing date, and will be provided in writing (and/or other accessible formats as requested). The decision made by the appeal panel will be the final determination. You may then only re-submit an application if your condition changes. ADA Paratransit service will not be provided for new applicants during the appeal process, unless the appeal process cannot be concluded within thirty (30) days.

Appeals must be in writing and forwarded to:

Executive Director
c/o Bis-Man Transit
3750 East Rosser Avenue
Bismarck, ND 58501

SECTION 4: PARATRANSIT TRIP RESERVATIONS PROCEDURES

[ADA 49 CFR 37.131 (b)]

Section 4.1 - Reservations

The following telephone number must be called to reserve a ride:

701.223.9901

Call volumes tend to be higher on weekends, so riders are encouraged to schedule their rides Monday-Friday.

Individuals who utilize a text telephone or TDD should call the Relay Service at 7-1-1 to get assistance in reserving a ride.

Section 4.2 - Advance Notice Requirement

Reservations may be made no more than fourteen (14) calendar days prior to when the individual wishes to ride. Rides need to be scheduled at least the day prior by calling the scheduling dispatch assistants at 701.223.9001 (select option 1) between the hours of 8:00 AM and 5:00 PM Monday to Saturday; 8:00 AM and 2:30 PM on Sunday. Trips may also be scheduled by leaving a voice message with dispatch from 2:30 PM to 5:00 PM on Sundays.

Medical appointments and some work arrangements allow for "will call" returns. In the case of a "will call," the rider is allowed to call the scheduling line when their appointment is done and the dispatcher will send a vehicle as soon as possible. If a rider has a return trip scheduled for his or her medical appointment or work and he or she will be delayed past the scheduled ride time due to unforeseen circumstances, the rider needs to call the scheduling line immediately and we will attempt to reschedule the trip and accommodate the rider on a space available basis.

Section 4.3 - Reservation Procedures

Paratransit trips will be coordinated to transport as many riders as possible.

When calling the scheduling line, have the following information ready:

- Name
- Date ride is needed
- Pickup location
- Destination
- Time that the rider needs to arrive at the destination
- If a companion or escort will be accompanying the rider
- If a rider assistance is needed by the driver (what type of assistance)
- Time of return trip

The scheduler that takes the call will give an estimated time that the bus will pick the rider up for the trip and for the return trip.

Section 4.4 - Reservation Cancellation

A rider up to 30 minutes prior to the scheduled pickup time may cancel reservations without being penalized with a no-show. (Refer to Section 6.2 - Penalties Imposed for "No Shows").

Section 4.5 - Subscription Service

[ADA Regulation 49 37.133]

If a rider wishes to ride at the same time and to the same destination on a regular basis, he or she may make a subscription reservation. Subscription service may not absorb more than fifty (50) percent of the number of trips available at any given time of the day, unless there is a non-subscription capacity.

Subscription reservations are restricted during all weekday peak demand operating hours to the following trip purposes: work (including volunteer), school, medical/counseling services, meals and social service programs. The dispatcher may reschedule or rearrange subscription reservations as needed for efficient use of vehicles and the rider will be notified of the change.

Section 4.6 - Same Day Request for Early Pickups

Requests to change your return pickup time because you are ready early will be accepted, but there is no guarantee that the time will be changed. The only exception to this will be return trips from appointments that are set up as "will calls." In this case, every effort will be made to adjust the rider's return trip pickup time and assign another vehicle to pick him or her up at a later time.

SECTION 5: PARATRANSIT PICKUP AND TRAVEL PROCEDURES

Section 5.1 - Pickup Procedures

The rider will be provided with a scheduled pickup time. All riders should be ready 15 minutes prior to their scheduled pickup time and allow 15 minutes to pass beyond their pickup time before calling the scheduling line at 701.258.6817 to inquire about their ride. The driver will wait five (5) minutes beyond the scheduled pickup time for the rider to appear. If the rider does not appear within the five minutes, he or she will be considered a no-show.

If the vehicle arrives earlier than 15 minutes prior to the scheduled pickup time, dispatch will attempt to contact the rider. If the rider is not yet ready, the driver will wait until scheduled pickup time before beginning to count the five minutes allowed for the rider to appear.

If the paratransit vehicle arrives more than 15 minutes later than the scheduled time under normal weather, road and operating conditions, and the rider chooses not to take the ride this will be considered a "missed trip" rather than a "no show". If the rider decides to still take the trip; the rider may not be obligated for pay the fare if he or she calls the Bis-Man Transit office at 701.258.6817 and discusses the situation with the Transit Director.

The entrance to the building where the rider is picked up will be the same entrance the rider will be brought back to unless the scheduler is notified otherwise at the time the rider is booking the ride.

Section 5.2 - Companions

[ADA Regulation 49 CFR 37.123 (f)]

Eligible riders may take one (1) companion with them. The beginning and ending destination of this companion must be the same as the Bis-Man Transit rider. Companions must pay for their ride (refer to Section 2.5 -Rider Fares). Additional companions may be accommodated on a space available basis. Escorts are not counted as companions.

Section 5.3 - Escorts

[AD A Regulation 49 CFR 37.123 (f) and 37.131 (c) (3)]

The escort (also known as a personal care attendant) is defined as someone designated or employed specifically to help the eligible rider meet his or her personal needs. An escort is allowed to ride free. If a rider requires an escort, he or she must indicate this on the application for eligibility form or notify the main office by calling 701.258.6817 if the need arises after the person becomes a rider. Escorts must have the same origin and destination as the eligible individual. Escorts must remain with the rider during the complete trip.

Section 5.4 - Origin to Destination Service

[ADA Regulation 49 CFR 37.129]

On request, the driver will assist riders between the vehicle and the entrance of a house, apartment building, or other building. Such assistance must be requested in advance by notifying the dispatcher

when the rider makes the reservation. If the rider has indicated on his or her application that he or she requires driver assistance regularly, the schedulers shall indicate this on the rides for all future trips.

Driver assistance ends when the driver has assisted the rider in getting to the main door of the building. If the rider needs additional assistance beyond the main door, he or she needs to have someone meet him or her at the door or have an escort and/or companion ride along. The driver will not assist individuals in wheelchairs into buildings that are not accessible (other than opening doors), nor will drivers push wheelchairs through areas that have not been cleared of snow. Assistance will be provided up/down curbs.

If the destination building is locked and an escort is not with or no one is available to meet the rider, the driver may get approval from the dispatcher to return the rider to the place of origin. For the safety of the rider, consistent occurrences of disruptions to the service may result in requiring an escort to accompany the rider.

Because the vehicle will be shared, riders should limit their parcels to one armload. Packages must be kept on the rider's lap or under his or her seat. For the safety of all riders, people may not transport explosives, acids, flammable liquids, weapons, or other hazardous materials.

Drivers are allowed to assist with carrying one load of packages per trip (maximum total weight of 25 pounds). For grocery trips, the number of packages is still limited to one trip. Small personal grocery carts may be brought on the paratransit vehicle; however, they must be placed behind a seat out of the aisle. A limit on the number of packages is established due to the available space and time required to carry the items. Packages may be placed on the floor as long as they don't interfere with wheelchair securements.

During the winter months, it is the riders' responsibility to ensure that all sidewalks and pathways are clear of snow at their residence. If a rider cannot be accommodated because of impossible boarding conditions, then the trip is considered cancelled.

Section 5.5 - Use of Ramp/Lift and Securement Inside Paratransit Buses

[ADA Regulation 49 CFR 37.165]

For those riding in wheelchairs, the driver will secure the wheelchair using the vehicle's securement system. Wheelchairs must be secured during transport. Refusal by the rider to allow securement devices to be used will result in denial of service.

[ADA Regulation 49 CFR 37.165]

It is recommended, for safety reasons, that electrically powered wheelchairs must have the main power switch placed in the "off" position at all time while the vehicle is in motion.

With respect to wheelchair/occupant combinations that are larger or heavier than those to which the design standards for vehicles and equipment of 49 CFR part 38 refer, Bis-Man Transit will carry the wheelchair and occupant if the lift and vehicle can accommodate the wheelchair and occupant. Bis-Man Transit may decline to carry a wheelchair/occupant if the combined weight exceeds that of the lift specifications or if carriage of the wheelchair is demonstrated to be inconsistent with legitimate safety requirements.

Bis-Man Transit may recommend to a user of a wheelchair that the rider transfer to a vehicle seat.

Where necessary or upon request, Bis-Man Transit personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

Bis-Man Transit shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle.

The definition of "wheelchair" specifically includes mobility scooters, and contains no requirements for brakes, footrests, push handles or other equipment.

Drivers and riders shall use seat belts at all times. Drivers shall instruct each rider to use the belt. Before pulling away from a stop, drivers shall make sure that riders are seated with seat belts properly secured. Children under the age of seven (7) who weigh less than 80 pounds and are less than 4'9" (57 inches) tall shall use an approved child restraint system at all times. The child restraint system is to be provided by the customer. Failure to use the seat belt and/or child restraint system shall result in denial of transportation services to the rider for that trip.

Exceptions to the mandatory seat belt requirements will be made for medical reasons upon receipt of a written statement from a physician, stating that the individual cannot be safely transported using seat belts because of a medical condition, body size, or physical disability.

Section 5.6 - Capacity Constraints

Bis-Man Transit will monitor service levels to determine the need to increase or reduce service to meet the transportation needs of riders. Therefore, records are kept and reviewed monthly of untimely pickups, missed trips, and excessively long trips (see definitions below) in order to consider the need for additional vehicles to meet capacity. There must be a consistent pattern and problems must be considered substantial in order to identify capacity constraints. If a significant capacity constraint is identified, additional vehicles may be placed into service to meet the demand.

Missed trip - Trips that are not completed because the vehicle arrived more than 15 minutes later than the scheduled time will be considered a "missed trip."

Excessively long trips - Travel time between pickup and drop off of more than one hour will be considered an "excessively long trip."

Bis-Man Transit is not responsible for operational problems caused by circumstances beyond our control such as unanticipated weather or traffic problems (trains, accidents, etc). Such problems will not be considered in establishing whether or not patterns that limit the availability of service exist.

The Bis-Man Transit driver cannot change a route (pickup or destination points) or make detours upon a rider request without first informing the dispatcher and receiving authorization.

Section 5.7 - Service Animals and Life Support Equipment

[ADA Regulation 49 CFR 37.167]

ADA paratransit eligible riders may travel with service animals trained to assist them. Service animals include guide dogs used by persons with vision or hearing impairments and dogs and other animals that

provide aid to persons with mobility problems. Riders should tell the scheduler when reserving trips that a service animal will be traveling with. Eligible riders may travel with portable life support equipment such as respirators and portable oxygen.

Service Animals: The ADA defines a service animal as any guide dog, signal dog, or other animal individually trained to aid an individual with a disability. If the animal meets this definition, animals are considered service animals under the ADA regardless of whether they have been licensed or certified by a state or local government.

Emotional support animals are not considered service animals under ADA. Transit operators may ask the rider what kind of assistance or service the animal performs but cannot ask for proof of service certificate.

The Department of Justice states: You may exclude any animal, including a service animal, from your facility when that animal's behavior poses a direct threat to the health or safety of others. For example, any service animal that displays vicious behavior toward other riders or the driver may be excluded.

People may not make assumptions, however, about how a particular animal is likely to behave based on past experience with other animals. Each situation must be considered individually.

Section 5.8 - Prohibited Activities

Smoking, drinking, or eating is not permitted in Bis-Man Transit vehicles. Smoking is not permitted within 20 feet of Bis-Man Transit vehicle doors and windows.

Section 5.9 - Animals

Pets may be brought on Bis-Man Transit vehicles if they are contained within a pet carrier during the whole trip duration.

Section 5.10 - Children

ADA eligible children age eight (8) and under are required to be accompanied by an adult, who will serve as the child's escort. If special equipment is needed to transport an infant or toddler, the family member or guardian accompanying the rider must provide the equipment (such as a car seat). The adult escort will not pay a fare.

SECTION 6: PARATRANSIT TRIP CANCELLATIONS AND DENIALS

Section 6.1 - Cancellations Procedures

Rides must be cancelled at least 30 minutes prior to the scheduled pickup time, otherwise the ride will be considered a "no show". Bis-Man Transit requests that cancellations be called in as soon as possible as a courtesy to others needing a ride.

The dispatcher's clock is the correct time for determining lateness of cancellations. Clocks at the Bis-Man Transit office are regulated by atomic clocks on satellite time. Refer to a cell phone or atomic clock for the same time as ours.

Section 6.2 - Penalties Imposed for "No-Shows"

[Federal Regulation 49 CFR 37.125 (h)]

In order to be considered "a no show", each of the following conditions has occurred:

- The customer has a scheduled paratransit trip.
- The ADA vehicle arrives at the scheduled pick-up point within the scheduled thirty (30) minute pick-up window.
- The driver waits at least five (5) full minutes beyond the start of the scheduled pick-up window, and the customer fails to board the vehicle.

Late cancellations will be counted as a no-show for the purposes of this policy.

A late cancellation occurs when the customer (or customer's representative) fails to call dispatch thirty (30) minutes or more prior to the scheduled pick-up time to cancel his/her ride.

If the customer has more than one ride scheduled, having a no-show does not automatically cancel the rest of the rides for the day. It is still the customer's responsibility to call and cancel the remaining rides for the day. If the rides are not cancelled, and the customer does not ride, the result would be additional no-shows.

Bis-Man Transit will track scheduled trips, no-shows, and late cancellations by customer. Bis-Man Transit will identify customers who have three (3) or more no-shows/late cancellations within any thirty (30) day period.

On the day the rider violates the no-show/late cancellation policy, the following progressive action will be taken:

- First occurrence — A warning letter will be issued advising the rider that he/she has violated Bis-man Transit's no-show/late cancellation policy.
- Second occurrence — Customer will receive a seven (7) day* suspension.
- Third occurrence — Customer will receive a fourteen (14) day* suspension. Subscription trips will be cancelled.
- Fourth occurrence — Customer will receive a twenty-one (21) day* suspension.

Appealing a Warning or Suspension

Customers are given the opportunity to appeal a suspension of service with Bis-Man Transit. If any citizen using the Bis-Man Transit system has a concern or disagreement, they are asked to submit their

issue in writing. All written appeals will be investigated and a response issued within five (5) working days.

If the individual is not satisfied with the response received from the Administrative office, they have the right to appeal the decision to the Bis-Man Transit Board of Directors at their next scheduled meeting. After the Board of Directors has reviewed the situation, they will provide a written response within ten (10) working days.

If the individual is not satisfied still, they have the right to submit a complaint to the Federal Transit Administration at 1200 New Jersey Avenue, SE, Washington, DC 20590 United States.

No-shows are EXCUSED when the trip is missed for the following reasons:

- The customer has a family emergency
- Mobility aid failure
- Appointment cancelled/delayed for reasons not the customers fault
- Adverse weather: Snow storm, extreme heat or extreme cold
- Staffing error: The transit coordinator did not make all the cancellations the client requested; or customer just found out the ride was scheduled for the wrong day, time, or location; or the customer was not informed that his/her pick-up time was changed, and was not ready.

No-shows or cancels are NOT EXCUSED when the trip is missed for the following reasons:

- Customer didn't want to travel today
- Customer changed their mind about using appointment
- Customer didn't know or forgot that he/she had a ride scheduled or was supposed to call to cancel
- Customer got another ride
- Customer told someone else he/she was not planning to travel (driver, facility, etc.)
- Someone else scheduled the ride for him/her
- Customer does not want to ride with specific driver or passenger, or on a specific vehicle

Section 6.3 - Refusal of Service

[Federal Regulation 49 CFR 37.5 (h)]

Service may be refused to anyone who is seriously disruptive or commits an illegal or violent act in violation of an established regulation or law. An example would be a rider that refuses to use a seat belt during travel.

Seriously disruptive behavior does not include conduct related to a rider's disability that may be disruptive or annoying to other riders. An example of this is a person with Tourette's syndrome who may periodically utter involuntary profane statements.

Bis-Man Transit reserves the right to deny entrance into a vehicle if the rider appears disorderly or leads the driver to conclude that the rider will exhibit disruptive behavior that would pose a safety threat not only to the driver, but also the other riders, including, but not limited to, intoxication and use of illegal drugs.

The use of offensive language when addressing the scheduler, driver or other riders is not allowed. Refusal to discontinue usage upon request may result in trip denial.

Denials of service shall be recorded. A copy of the record can be provided to the rider or the rider's legal guardian upon request.

Section 6.4 - Condition of Service

Bis-Man Transit reserves the right to require an escort when transporting a rider that has a documented medical or behavioral condition that could pose an unsafe situation for the rider, driver, or other riders. Bis-Man Transit may suspend eligibility or permanently revoke riding privileges if our records indicate that the rider has threatened or abused a driver or other rider.

SECTION 7: OTHER INFORMATION

Section 7.1 - Travel Training

Information about travel training for riders for Bis-Man Transit and the fixed-route Capital Area Transit buses may be obtained by calling the Bis-Man Transit office at 701.258.6817.

Section 7.2 - Accessible Phone Communications

[ADA Regulation 49 CFR 37.167 (f)]

Individuals who may utilize a TDD phone should call 7-1-1 to reserve a ride.

Section 7.3 - Public Information

[ADA49 CFR 37.167 (f)]

For information on how to obtain large print copies or a cassette tape of these guidelines, please call the Bis-Man Transit office at 701.258.6817 or TDD phone line at 7-1-1. Copies may be obtained from the Bis-Man Transit, 3750 E Rosser Ave, Bismarck, ND 58501. Copies are also available on the website at www.bismantransit.com

Section 7.4 - Privacy Regarding Medical Information

The medical information that may be gathered as part of the eligibility determination process will not be shared with any other party. Bis-Man Transit, however, may share information regarding the functional ability of an individual to utilize transit services with another transit system if this is required to determine eligibility in that system.

Section 7.5 - Complaints and Compliments

Bis-Man Transit would like to hear your suggestions, compliments, or complaints. Comments should be forwarded to the Transit Director by calling 701.258.6817 or TDD phone line 7-1-1 or in writing to:

Bis-Man Transit
3750 E Rosser Ave
Bismarck, ND 58501

Bis-Man Transit Board Official Complaint Process

Bis-Man Transit is responsible to provide a safe, dependable, affordable transportation service. We encourage any rider or concerned citizen to notify the administrative office if he or she is not provided such a service. We also encourage any citizen that observes a driver in a vehicle not driving in a safe manner to contact the administrative office with the time and place where the vehicle was observed.

Bis-Man Transit will not discriminate against any individual regardless of race, color or national origin as identified under Title VI of the Civil Rights Act of 1964. To make an official complaint a person must submit the complaint in writing to the administrative office. (If the individual filing the complaint is unable to write out the complaint, Transit staff will assist the individual with writing the complaint). All written complaints will be investigated and a report issued to the individual with the complaint within 5

working days. If the individual is not satisfied with the response received from the administrative office, he or she has the right to appeal the decision to the Bis-Man Transit Board of Directors meeting.

After the Board of Directors has reviewed the situation, they will provide a written response within 10 working days. In regards to an appeal of a Title VI complaint decision, the appeal will be made to the City of Bismarck, following the city's appeal process.

Section 7.6 - Driver Training

Drivers are trained to provide service to seniors and people with disabilities. In addition, all drivers received training in defensive driving and sensitivity, CPR and First Aid.

Section 7.7 - Vehicles

Bis-Man Transit requires vehicles to receive regular service and maintenance according to specified standards. If you feel that some aspect of the vehicle may not have been properly maintained, please call the Bis-Man Transit office at 701.258.6817 or TDD line at 7-1-1.

Section 7.8 - Reporting Abuse

[Vulnerable Adult Act]

Drivers are to report any suspicion or knowledge that a vulnerable adult rider being transported has been abused, neglected, or exploited as soon as possible. Riders will be informed that the driver is making an "Adult Protection Report" with details of the observation or knowledge.

Addendum to Section 6.3 - Refusal of Service

Service may be refused to an individual who throws up or has an accident in which bodily fluids are involved. If a rider comes in the vehicle and gets sick or has an accident that causes the driver to take the vehicle into the garage before service can be continued, Bis-Man Transit has the right to charge a reasonable amount for cleaning the vehicle.

Section 2.6 Form**REFUND FORM**

All sections must be completed to be considered for refund. Refunds will not be processed on the same day. All approved refunds will be by check.

1. PERSONAL INFORMATION

Customer Name: _____ Phone: _____

Home Address: _____ City: _____ State: _____ Zip: _____

E-mail address: _____

Customer Signature: _____ Today's Date: ____/____/____

I hereby certify that I am the original purchaser or personal representative of the below-described ticket(s)

2. REASON FOR REFUND

☐ Relocation

☐ Death

3. TICKET INFORMATION

Ticket Type: ☐ Paratransit Punch Tickets

☐ Diminishing Balance

Number of Punch Tickets @ \$12.00: _____

Account Balance: _____

Total Refund Request Amount: _____

DO NOT WRITE BELOW THIS LINE – OFFICE USE ONLY

Original Form Taken By: _____ Date Taken: ____/____/____

Amount of Refund: _____ ☐ Claim Approved ☐ Claim Disapproved

Authorized By: _____ Date: ____/____/____

PLEASE READ THE FOLLOWING INSTRUCTIONS TO ENSURE A PROMPT INVESTIGATION AND RESOLUTION OF YOUR REFUND.

If you are returning unused punch tickets for a refund due to death:

- Please complete all sections.
- Punch tickets must be undamaged and unused to be considered for refund.
- Punch tickets will not be refunded unless a copy of the certified death certificate is provided.

If you are requesting a refund for a diminishing balance account:

- Please complete all sections, including the reasoning for the refund.
- Diminishing balance refunds due to death will not be refunded unless a copy of the certified death certificate is provided.

Claims may be submitted in person at the Transit Facility or via mail. If you prefer to submit your claim by mail, please send to:

**Bis-Man Transit Board
3750 East Rosser Ave
Bismarck, ND 58501**

We will contact you regarding your claim within two weeks. If you have any questions, please call the Administrative Office during regular business hours at 701.258.6817.



F

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

February 22, 2024

TO: Bis-Man Transit Board of Directors

FROM: Deidre Hughes, Executive Director

SUBJECT: Drug and Alcohol-Free Workplace Policy

BACKGROUND: Bis-Man Transit does not currently have a Drug and Alcohol-Free Workplace policy. This is an FTA requirement, regardless of the size of the organization. The Bis-Man Transit Employee handbook references a policy, but staff was unable to locate it.

DISCUSSION: Staff participated in training for the upcoming Triennial Review and noted that Bis-Man Transit is missing the Drug and Alcohol-Free Workplace Policy. Other agency policies and the FTA Contractors Manual (2023) were used to develop the proposed policy.

RECOMMENDATION: Bis-Man Transit staff recommends acceptance of the proposed Drug and Alcohol-Free Workplace Policy.



3750 E Rosser Avenue,
Bismarck, ND 58501



info@bismantransit.com



701.258.6817



www.bismantransit.com

Bis-Man Transit Board Drug & Alcohol-Free Workplace Policy

PURPOSE AND GOAL:

The Bis-Man Transit Board also referred to as Bis-Man Transit, is committed to protecting the safety, health, and well-being of all employees and other individuals in our workplace. We recognize that alcohol abuse and drug use pose a significant threat to our goals. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment. Bis-Man Transit is committed to providing employees with a safe work environment, fostering the health of its employees, and protecting Bis-Man Transit's property and assets. Additionally, Bis-Man Transit encourages employees to seek help with drug and alcohol problems voluntarily.

POLICY:

Employees shall report to work fit for duty and free of any adverse effects of illegal drugs or alcohol. This policy does not prohibit employees from the lawful use and possession of prescribed medications taken as prescribed, and that does not compromise workplace safety. Bis-Man Transit has no desire to intrude into the employees' personal lives. However, both on- and off-the-job involvement with any mood-altering substances can have an impact on our workplace, Bis-Man Transit's interest and reputation, and its ability to achieve its objectives of safety and security.

The unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled or illicit substance is prohibited in the workplace. Off-premises drug possession, use, or sale is prohibited when such activities adversely affect job performance, job safety, or Bis-Man Transit's reputation. All employees will be subject to disciplinary action, including termination for violations of this Policy.

Any employee who is charged and/or convicted under any federal or state criminal drug and/or alcohol statute must notify the Executive Director or President of the Board of Directors within five (5) days of the charge and/or conviction and may receive some form of disciplinary action, including termination.

The proper use of controlled or over-the-counter drugs as part of a prescribed treatment program for the individual does not constitute, by fact alone, a violation of the Policy. An employee undergoing prescribed medical treatment with a controlled medication that could impair his/her physical, mental, or emotional faculties must immediately report this treatment to the Executive Director or President of the Board of Directors. Failure to do so will constitute a violation of this Policy. It is a violation of this policy for an employee to use prescription drugs illegally, i.e., to use prescription drugs that have not been legally obtained or in a manner or for a purpose other than as prescribed. It is also a violation of this policy to use prescription medication that has been prescribed for someone else.

Bis-Man Transit may also search employer-owned property, as well as the personal effects of employees (including clothing, vehicles, containers, and toolboxes) brought onto Bis-Man Transit property. Bis-Man Transit may take into custody any illegal, unauthorized, or prohibited items and may turn them over to the proper law enforcement agencies. Refusal to allow a search or interference with a search may result in disciplinary action, including possible termination.

INDIVIDUAL SUBJECT TO DRUG AND ALCOHOL TESTING:

All employees and applicants who have received a conditional offer of employment are subject to drug or alcohol testing and the provision of this Policy.

CIRCUMSTANCES FOR TESTING:

The circumstances under which Bis-Man Transit may request or require drug or alcohol testing are:

- a) **Pre-Employment:** Applicants who have received a conditional offer of employment may be required to submit to drug and alcohol testing. A positive test or a refusal to undergo testing may result in a refusal to hire.
- b) **Reasonable Suspicion:** Any time Bis-Man Transit has reasonable suspicion that an individual is under the influence of drugs or alcohol, a drug or alcohol test may be required. Circumstances causing Bis-Man Transit to require testing of individuals may include, but are not limited to:
 - Drugs or alcohol on or about the individual's vicinity
 - Abnormal conduct or erratic behavior on the individual's part that suggests impairment or influences of drugs or alcohol.
 - Evidence that an individual has tampered with a drug or alcohol test.
 - Excessive or unexplained absenteeism or tardiness
 - A report of drug or alcohol use by a reliable and credible source
 - Evidence that an employee has used, possessed, sold, solicited or transferred drugs or alcohol while working or while on the premises or while operating a company vehicle, machinery or equipment
- c) **POST-ACCIDENT TESTING:** If an employee or another person has sustained any injury at work or in cases in which Bis-Man Transit property has been damaged, including damage to equipment, Bis-Man Transit may require drug and/or alcohol testing.
- d) **RANDOM TESTING:** Bis-Man Transit may require an individual or all members of a classification or group to undergo drug or alcohol testing at random.

SUBSTANCES THAT WILL BE TESTED:

Under this Policy, the Company shall test for drugs and alcohol, including but not limited to:

1. Amphetamines
2. Cannabinoids/THC
3. Cocaine
4. Opiates
5. Phencyclidine (PCP)
6. Benzodiazepines
7. Propoxyphene
8. Methaqualone
9. Methadone
10. Barbiturates
11. Synthetic Narcotics
12. Alcohol- A breath alcohol concentration of .04 shall be the maximum acceptance level of concentration.

TESTING METHODS AND COLLECTION PROCEDURE:

The collection of samples and administration of drug and alcohol tests shall follow all standards, procedures,

and protocols set forth by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Administration (SAMHSA). Samples shall be collected and tested by a laboratory certified in accordance with the National Laboratory Certification Program (NLCO). The collection of samples shall be performed under reasonable and sanitary conditions. Samples shall be collected and tested with due regard to the privacy of the individual being tested. A sample shall be collected in sufficient quantity for splitting into two separate specimens to provide for any subsequent independent analysis in the event of a challenge of the test results of the main specimen. During urine collection, no employer or representative, agent or designee of the employer shall directly observe an applicant or employee in the process of producing a urine sample; provided, however, collection shall be in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples. Sample collection shall be documented with proper chain of custody, and the documentation procedure shall include labeling of samples so as to be reasonable to preclude the probability of erroneous identification of test results. Sample collection, storage, and transportation to the testing facility shall be performed so as to be reasonable to preclude the probability of sample contamination or adulteration.

All positive test results will be reviewed by a Medical Review Officer (MRO). Applicants or employees will be provided an opportunity to provide notification of any information that the applicant or employee considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs or other relevant information if a test is positive. If the MRO determines that there is not a medical explanation for the positive test result other than the unauthorized use of alcohol or prohibited drugs, the MRO shall report to the Company a positive result. No positive results will be reported to the Company until the MRO has made that determination. Testing facilities must be certified by SAMHSA.

CONSEQUENCES FOR VIOLATING THE TESTING POLICY:

Refusal to be Tested: Any individual who refuses to submit to Bis-Man Transit's request for drug and/or alcohol testing or refuses to complete the required forms will be subject to termination from employment or will not be eligible for employment, as the case may be. Interfering with and/or failing to cooperate with the testing process will be treated as a refusal to be tested, including failure to provide an adequate sample within three hours of being notified of a test.

Adulteration, tampering, or manipulation of Samples -The actual or attempted tampering, adulteration, and/or manipulation of drug and alcohol testing samples is prohibited. Any individual who attempts to alter, tamper, or manipulate any testing samples will be subject to termination from employment or will not be eligible for employment, as the case may be.

Personnel action may be taken as a result of a positive test result. Any individual who violates this policy regarding actual or intent to possess, consume, use, transfer, solicit, or sell illegal drugs or abuse prescription or over-the-counter drugs will be subject to disciplinary action, including but not limited to termination.

CONFIDENTIAL EXPLANATION BY INDIVIDUAL

Any individual who receives a positive drug test result or has otherwise violated this policy will be given an opportunity to offer an explanation, in confidence, to a representative of Bis-Man Transit.

Training

Each employee shall have one (1) hour of initial training on the Drug and Alcohol-Free Workplace Policy. Refresher training shall be conducted annually for a minimum of 30 minutes. The Executive Director shall receive in addition to the standard training on the Drug and Alcohol-Free Workplace Policy a minimum of 30 minutes annually on alcohol and substance abuse awareness. Records of this training shall be maintained.

Communication

Each employee shall be given a copy of the Drug and Alcohol-Free Workplace Policy upon hire and annually. A copy of the Drug and Alcohol-Free Workplace Policy shall be posted in the company break room. An Acknowledgement Form shall be signed by each employee annually.

The Drug and Alcohol-Free Workplace Policy shall be maintained with all applicable federal, state, and local regulations.

Appeals Procedures

Within 24 hours of receiving notice of a positive test, an individual may request a subsequent confirmation test of a sample. The individual shall pay all costs of the subsequent confirmation test unless the subsequent confirmation test reverses the findings of the challenged positive test. In those cases where the confirmed test reverses the initial findings, Bis-Man Transit will reimburse the individual for the cost of the subsequent confirmation test.

Any part of the Policy can be changed by Bis-Man Transit but must be in compliance with 49 CFR 32.205.

Records

Records of all drug and alcohol test results and related information are the property of Bis-Man Transit. However, upon written request, those test results and related information will be made available for inspection and copying to the individual tested. The drug and alcohol test results and related information will be treated as confidential and will be maintained in a separate file.

ACKNOWLEDGMENT OF RECEIPT OF DRUG AND ALCOHOL-FREE WORKPLACE POLICY

By signing below, I acknowledge that I have received a copy of the Drug and Alcohol-Free Workplace Policy for my reference as to procedures, work rules, and benefits. I understand it is my responsibility to read and comply with the Drug and Alcohol-Free Workplace Policy, and any revisions made to it will be communicated to me. I understand I should consult with the Executive Director or President of the Board of Directors regarding any questions I might have.

Date_____

Signature_____



G

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

February 22, 2024

TO: Bis-Man Transit Board of Directors

FROM: Deidre Hughes, Executive Director

SUBJECT: 2024 Procurement Policy Update

BACKGROUND: The current Procurement Policy was put in place in October 2023.

DISCUSSION: Staff participated in training for the upcoming Triennial Review and noted a few items needed to be clarified within the current plan. All changes are in red text. The FTA Contractors Manual (2023) was used for reference when developing the changes.

RECOMMENDATION: Bis-Man Transit staff recommends acceptance of the proposed Procurement Policy update.



3750 E Rosser Avenue,
Bismarck, ND 58501



info@bismantransit.com



701.258.6817



www.bismantransit.com

2024

Bis-Man Transit Board

Procurement Policy and Procedures

EFFECTIVE FEBRUARY 22, 2024

BIS-MAN TRANSIT BOARD | 3750 East Rosser Ave, Bismarck, ND

TABLE OF CONTENTS

SECTION 1 – Purpose and Introduction	5
1.0 Objective	5
1.1 General Procurement Standards	5
1.2 Competition	5
1.3 Standards of Conduct	6
1.4 Economic Purchasing	6
1.5 Specifications	6
1.6 Contract Administration	6
1.7 Records	6
1.8 Contract Period	7
1.9 Use of Existing Contracts	7
1.10 Protests	8
 SECTION 2 – Policies.....	 12
2.1 Ethics	12
2.2 Organizational Conflict of Interest	13
2.3 Centralized Purchasing Authority	14
2.4 Approval Levels for Purchases	15
2.5 Disadvantaged Business Enterprises	16
2.6 Audits/Inventory of Assets	17
2.7 Disposition of Surplus Equipment and Supplies/Scrap	17
 SECTION 3 – Responsibilities	 19
3.1 General	19
3.2 Bis-Man Transit Board	20
3.3 Executive Director	20
3.4 Accountant	21
3.5 Disadvantaged Business Enterprise Liaison Officer	21
 SECTION 4 – Acquisition Planning.....	 21
4.1 General	21
4.2 Staff Responsibilities	21
4.3 Planning Major Procurements	22
4.4 Planning Routine Procurements	22
 SECTION 5 – Methods of Procurement – Below Bidding Threshold	 22
5.1 General	22
5.2 Micro Purchases	23
5.3 Small Purchases	24
5.4 Bis-Man Transit Competition Guidelines	24
5.5 Check Request/Petty Cash/Direct Pay Items	24

SECTION 6 – Formal Procurement Methods	25
6.1 General	25
6.2 Conditions Determining When Formal Advertising is Appropriate.....	25
6.3 Public Advertising.....	26
6.4 Solicitation: Preparation of IFB	27
6.5 Solicitation Guidelines	29
6.6 Two-Step Sealed Bid	30
6.7 Competitive Negotiations (Sealed Proposals)	32
6.8 Architect/Engineering Contracts	34
6.9 Non-Competitive Procurement	35
SECTION 7 – Receipt and Evaluation of Bids and Proposals	36
7.1 Sealed Bids.....	36
7.2 Competitive Proposals	36
7.3 Responsiveness Review	36
7.4 Responsible Review.....	37
SECTION 8 – Contract Cost and Price Analysis	37
8.1 Requirement	37
8.2 Independent Cost Estimate	37
8.3 Cost Analysis	37
8.4 Price Analysis	38
SECTION 9 – Construction Contracts	38
9.1 General	38
9.2 Federal Labor Requirements.....	39
SECTION 10 – Contract Administration	40
10.1 Post-Award Responsibilities	40
10.2 Project Management	40
10.3 Contract Amendments and Change Orders.....	41
10.4 Contract Requirements	41
10.5 Assignment of Contract Rights	42
10.6 Impermissible Actions	43
10.7 Special Contract Requirements.....	45
10.8 Insurance Provisions	46
10.9 Prohibited or Restricted Contract Types.....	49
10.10 Revenue Contracts	49
10.11 Contract Termination Provisions	49
10.12 Buy America Provisions	50
10.13 Lobbying Restrictions.....	51
10.14 TVM Compliance with DBE Requirements	52
10.15 Debarment and Suspension (SAM.gov)	52
10.16 Federal Provisions and Required Contract Clauses	52

Appendix A – Solicitation File Checklist	53
Appendix B – Contract File Checklist.....	54
Appendix C – Methods of Procurement – Quick Reference.....	56-57
Appendix D – Applicability of Third Party Contract Provisions.....	58-60
Appendix E – Federal Clause Checklist	61-64
Appendix F – Pre-Award/Post-Delivery Audits	65-72
Appendix G – Procurement Checklist & Forms	73-79

***Duties and responsibilities attributed to departments and positions not currently utilized by Bis-Man Transit will be the responsibility of the Executive Director or designee.**

1.0 PURPOSE AND INTRODUCTION

Objective

The purpose of this Bis-Man Transit Board (hereinafter “Bis-Man Transit”) Procurement Manual is to define the basic policies and procedures for the procurement of, accounting for, and disposal of Bis-Man Transit materials, equipment, buses, other vehicles, and facilities; and the procurement and administration of professional services and other services required by Bis-Man Transit. The Procurement Manual specifies policy and procedure for all Bis-Man Transit individuals involved in the procurement process.

Bis-Man Transit policies and procedures are established in order to:

1. Maximize the value received for Bis-Man Transit expenditure of public funds,
2. Protect assets purchased with public funds and ensure their application in Bis-Man Transit interest,
3. Provide a timely, efficient, and cost-effective flow of resources necessary to support Bis-Man Transit’s provision of service, and
4. Protect the integrity of Bis-Man Transit procurement process and protect the reputations of Bis-Man Transit, its officers, and its employees.

1.1 General Procurement Standards

1.2 Competition

It is the policy of Bis-Man Transit all procurement transactions be conducted in a manner intended to maximize full and open competition. Bis-Man Transit will only make awards to responsive and responsible bidders. A responsive offer is one that complies with all material requirements of the solicitation. A responsible bidder is one possessing the technical, physical, financial and ethical capacity to successfully perform a specific contract.

In implementing this standard, staff members are expected to be aggressive in identifying potential vendors for each procurement. If appropriate, each procurement expected to cost above the small purchase threshold shall be advertised in local, and, as appropriate, regional, national and trade publications, and known vendors will be directly informed of the project and encouraged to respond to the solicitation. In addition, each competitive procurement above the small purchase threshold shall be posted on the Bis-Man Transit website. The advertisement and notice shall provide the solicitation number and title, the date of any pre-bid or pre-proposal conference, and the date and time for receipt of responses to the solicitation.

Advertisements and notices shall be issued at the beginning of the solicitation period or as soon thereafter as practicable (e.g. to accommodate the advertising schedules of publications). For procurements below the small purchase threshold, formal advertising is not required, but may be used if appropriate.

1.3 Standards of Conduct

Bis-Man Transit shall maintain this written standard of conduct governing the performance of employees, officers, agents related to the solicitation, award and administration of contracts, conforming to applicable laws and regulations, including but not limited to FTA Circular 4220.1F, as they may be amended from time to time.

1.4 Economic Purchasing

Proposed procurements will be reviewed to avoid duplicative or repetitive purchases to the greatest extent feasible and consistent with good procurement practices. Consideration should be given to consolidating or breaking out procurements to obtain more economic pricing. Where appropriate, analysis will be made of lease versus purchase alternatives or any other appropriate methodology to determine the most economical approach.

1.5 Specifications

All solicitations shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such descriptions shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be acquired. Whenever practical, requirements will be described in terms of functions to be performed or level of performance required, including the range of acceptable characteristics or minimum acceptable standards. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance; however, when this method is used, the specification must set forth the salient characteristics that the product must meet, and vendors will be allowed to offer "equal" products meeting the salient characteristics. Specifications for bid solicitations, whether by small purchase or formal procurement, shall be sufficiently detailed to ensure that bidders may submit pricing on an "apples to apples" basis. Specifications or scopes of services for negotiated procurements may be more general and accommodate the possibility of alternative solutions or products.

1.6 Contract Administration

Bis-Man Transit will maintain a contract administration system designed to ensure conformance by all parties with the terms, conditions, and specifications of their contracts.

1.7 Records

Bis-Man Transit shall maintain records detailing the history of procurement in a manner consistent with the size, complexity and cost of the contract.

At a minimum, these records shall include:

- (a) The rationale for the method of the procurement
- (b) Selection of the contract type
- (c) Reasons for contractor selection or rejection

- (d) The basis for the contract price
- (e) Independent Cost Estimate

1.8 Contract Period

The period of contract performance for rolling stock and replacement parts shall not exceed five years, inclusive of options, as defined in FTA C 4220.1F. The length of all other contracts shall be based upon sound business judgment, including consideration of issues such as the nature of the item being purchased, the need to afford the contractor a reasonable opportunity to recapture any start-up costs, the need to afford competing vendors the opportunity to do business with Bis-Man Transit, and the relative benefit to Bis-Man Transit of a longer or shorter contract term.

1.9 Use of Existing Contracts

1.9.1 Federal and State Contracts

Bis-Man Transit may consider and pursue, in the interest of economy and efficiency, the use of Federal, State and local intergovernmental agreements for procurements, agreements for the use of common goods and services, or the use of federal or state excess and surplus property, when it is in the interest of Bis-Man to do so and complies with Federal Transit Administration and North Dakota Department of Transportation requirements and guidelines.

1.9.2 Exercising Options in Other Agency Contracts

The term “piggybacking” is often used to describe one transit agency using the existing contract of another transit agency when the awarding agency contract did not originally envision its use by the piggybacking agency. A number of FTA requirements must be met before such a contract may be used. FTA requires the existing contract contain an assignability clause and all required FTA contract clauses and certifications; these clauses cannot be added by Bis-Man Transit as part of its use of the existing contract. All quantities acquired by assigned contract rights must be within the original contract quantities (including options) and acquired within the term of the existing contract. Bis-Man Transit must determine the agency with the contract complied with all FTA requirements relating to competition and performance of a cost or price analysis. Bis-Man must also perform its own cost or price analysis to determine the prices it will pay are fair and reasonable. Bis-Man Transit Staff will obtain all appropriate documentation from the original awarding agency are retained in the procurement file for each acquisition. Piggybacking should not be confused with a joint acquisition, where Bis-Man is a named party in the original solicitation.

1.9.3 Types of Options

Generally, there are three types of options which may be included in a solicitation:

- (a) Options for additional quantities may be utilized when Bis-Man Transit anticipates that quantities of the same goods or services beyond those specified may be

required within the time period of the contract, conditioned upon unsecured funding or potential future events. The additional quantities should be clearly specified and, to the extent reasonably feasible, the time frame identified. Cost factors such as escalation or quantity discounts should be considered in evaluating the price reasonableness of such options.

- (b) Options for additional time periods are often used in annual service contracts, where Bis-Man Transit desires the ability to continue with a contract beyond the base term of the contract, conditioned upon satisfactory performance by the contractor. The total of the option periods should not exceed a reasonable period for the services required, and options cannot be used to perpetuate a contract with one contractor to the detriment of reasonable competition. Factors such as escalation and the economic value of prior experience should be considered in evaluating the price reasonableness of such options.
- (c) Options for additional or alternative types of goods or services may be used where Bis-Man Transit wishes items beyond its estimated capacity to fund the contract (such as a higher quality of product) or where a future set of services may be needed depending upon the results of the initial contract scope (such as in preliminary feasibility or design contracts).

In developing options for a solicitation, Bis-Man Transit and the technical participants must consider the benefits and drawbacks of a new solicitation for the optional items, the impact on competition, and the feasibility of obtaining reasonably accurate pricing.

1.10 Protests

1.10.1 Policy

Bis-Man Transit policy requires all prospective contractors be accorded fair and equal consideration in the solicitation and award of contracts. To that end, any interested party shall have the right to protest alleged inequities in the procurement process and to have its issues heard, evaluated and resolved administratively. "Interested party" is defined as an actual or prospective bidder whose direct economic interest would be affected by the award of a contract or by failure to award a contract.

1.10.2 Submittal Procedures

An interested party wishing to protest a matter involving a proposed procurement or contract award shall file a written submission with Bis-Man Transit by certified mail or other delivery method by which receipt can be verified. Electronic submission of protests will not be accepted.

The protest shall include, at a minimum:

- (a) The name and address of the protesting party and its relationship to the procurement sufficient to establish the protest is being filed by an interested party;

- (b) Identity of the contact person for the protestor, including name, title, address, telephone, fax and email addresses. If the contact point is a third party representing the protester, the same information must be provided, plus a statement defining the relationship between the protester and the third party.
- (c) Identification of the procurement;
- (d) A description of the nature of the protest, referencing the portion(s) of the solicitation involved;
- (e) Identification of the provision(s) of any law, regulation, or other governance upon which the protest is based;
- (f) A complete discussion of the basis for the protest, including all supporting facts, documents or data; and
- (g) A statement of the specific relief requested.
- (h) A notarized affirmation by the protestor (if an individual) or by an owner or officer of the protestor (if not an individual) as to the truth and accuracy of the statements made in the protest submittal.

The protestor is solely responsible for the completeness and validity of the information provided. Any documents relevant to the protest should be attached to the written submission. Documents which are readily available on the Internet may be referenced to an appropriate link.

Protests shall be submitted in accordance with the requirements of this chapter and any directions included in the solicitation, and shall be addressed to Bis-Man Transit. Bis-Man Transit may decide a protest solely upon the written submission. The protest submission should therefore include all materials necessary to support the protester's position. Additional or supplemental materials may only be submitted at the request of, or with the permission of, Bis-Man Transit. If the procurement uses federal funds, an informal notice of receipt of a protest must be given to the appropriate regional office of the Federal Transit Administration (FTA). The form of notice may be specified by the regional office.

1.10.3 Protests of the Solicitation Process

A protest related to the technical scope or specification, terms, conditions, or form of a solicitation must be received no later than ten (10) working days prior to the date established for opening of bids or receipt of proposals; if the protest addresses an amendment to the solicitation, it must be received no later than ten (10) working days prior to the date established for opening bids or receipt of proposals or five (5) working days after the date of issuance of the amendment, whichever is later; in no event, however, may a protest of this nature be submitted after bids or proposals are received. The protest must conform in all respects to the requirements set forth in Section 1.10.2 above. Upon receipt of such a protest, Bis-Man Transit shall notify all prospective procurement bidders and other known interested parties of the receipt and nature of the

protest, and shall post a notice of the protest on Bis-Man Transit web page. Unless Bis-Man Transit determines that delay will be prejudicial to the interest of Bis-Man Transit or that the protest patently lacks substantial merit, the solicitation process will be extended pending resolution of the protest. Protests will be considered and either denied or sustained, in part or in whole, by Bis-Man Transit in writing. A written decision specifying the grounds for sustaining all or part of or denying the protest will be transmitted to the protestor prior to the receipt of bids or proposals in a manner that provides verification of receipt. A notice of the decision shall be provided to all parties given notice of the protest, and posted to Bis-Man Transit's procurement web page. Should the protest be upheld in whole or in substantial part, the contracting officer may either (1) amend the solicitation to correct the document or process accordingly; or (2) cancel the solicitation in its entirety. If the solicitation is amended, the time for receipt of bids or proposals shall be equitably extended to permit all participants to revise their bids or proposals to reflect the decision. If the protest is denied, the solicitation shall proceed as if the protest had not been filed, unless the protester pursues its protest with the Federal Transit Administration (FTA) as defined below, or otherwise appeals the decision of Bis-Man Transit, as defined below. Protests received by Bis-Man Transit after the time periods specified above shall be considered untimely and may be denied on that basis unless Bis-Man Transit concludes that the issue(s) raised by the protest involves substantial prejudice to the integrity of the procurement process.

1.10.4 Protests of the Evaluation Process

All bidders/proposers will be notified of the recommended award, upon a determination by Bis-Man Transit staff of a recommendation to be made to the Board of Directors, as appropriate. This notice will be transmitted to each proposer at the address contained in its proposal form, and shall be posted on the procurement page of the Bis-Man Transit website. Transmittal may be by electronic means or by hard copy. Any proposer whose proposal is valid at the time of the staff determination may protest the recommended award on one or more of the following grounds:

- (a) That the recommended award does not meet the requirements of the solicitation;
- (b) That the bid or proposal recommended for acceptance does not meet the criteria of the solicitation for award;
- (c) That the evaluation process conducted by Bis-Man Transit is improper, illegal, or the decision to recommend award is arbitrary and capricious. The protest must be received by Bis-Man Transit at the address specified in the solicitation, no later than five (5) working days after the date such notification is publicly posted or sent to the bidder or proposer, whichever is earlier. A written decision stating the grounds for allowing or denying the protest will be transmitted to the protestor and the proposer recommended for award in a manner that provides verification of receipt. Such decision shall be final, except as provided in § 1.10.5 below or by applicable law or regulation. Upon receipt of a protest of this type, Bis-Man Transit shall notify all bidders and any other known interested parties of the receipt and nature of the protest and request an extension of the validity period of

their offers, if appropriate. Unless the Executive Director determines that delay will be prejudicial to the interest of Bis-Man Transit or that the protest lacks substantial merit, award will be withheld pending disposition of the protest. Should one or more bidders refuse a requested extension of the validity of an offer, Bis-Man Transit may reject such proposal unless it is determined that the protest can reasonably be resolved and the award process continued without need for such extension. Delay in an award shall be considered prejudicial to Bis-Man if:

1. The equipment, supplies or services are urgently required; or
2. Failure to make a prompt award will economically or operationally damage Bis-Man Transit. Should the protest be upheld in whole or in substantial part, Bis-Man Transit may either (1) revise the evaluation process to correct the matter protested; or (2) cancel the solicitation in its entirety. In the event that Bis-Man Transit proceeds with an award for one of the reasons stated above, and the protest is subsequently upheld, Bis-Man Transit shall determine whether the performance of the contract will reasonably permit its termination in order to correct the protested matter. Such termination shall be for the convenience of Bis-Man Transit.

1.10.5 Evaluation of Protests

A protest decision should ordinarily be written and published within ten (10) working days of receipt of the protest. Bis-Man Transit may extend the response period if additional time is required to gather and evaluate information necessary for the decision or for other good cause.

Upon receipt of a protest, Bis-Man Transit shall notify parties involved in the procurement as identified above, and such Bis-Man personnel or others as may be appropriate or necessary to determine the validity of the protest. A notice of the receipt of a protest should be sent to the FTA regional office, per FTA Circular 4220.1F, Chapter VII, Sec. 1.a(2). Copies of the protest submittal, or portions thereof, may be provided to the notified parties as appropriate. Bis-Man Transit may request additional written information from the protestor or other parties, as necessary to determine the validity of the protest. A formal or informal hearing may be held. If a formal hearing is held, testimony shall be given under oath and a transcript or electronic recording of the proceeding shall be made; the transcript or recording shall be provided to the protestor and made part of the protest record. Bis-Man Transit shall redact from any submission under the protest process information which has been identified as proprietary, and which, in his/her judgment, is protected from disclosure under the North Dakota state law.

1.10.6 Protest Appeal

Appeals Decisions of Bis-Man Transit may be appealed to the Board of Directors by the protestor within five (5) working days after the decision is issued to the protestor. The appeal shall be in writing, addressed to the Bis-Man Transit Board of Directors with a copy to the Executive Director, and shall state with specificity

the basis for the appeal. The Executive Director shall review the written record of the protest and may conduct such further investigation as is deemed necessary or appropriate to reach a decision. The decision of the Executive Director and Bis-Man Transit Board of Directors will ordinarily be issued within fifteen (15) working days of receipt of the appeal; this time period may be extended if necessary to complete an investigation. The decision of the Executive Director and Board of Directors shall be final and conclusive, except for such remedies as state or federal law or regulation may provide.

1.10.7 Protests Filed with FTA

A protestor may file a protest with FTA only after exhausting all administrative remedies provided by the Bis-Man, on the basis described in FTA Circular 4220.1F, Chapter VII, Sec. 1.b. FTA review of protests will generally be limited to allegations (1) Bis-Man Transit does not have or fails to follow its protest procedures; (2) Bis-Man Transit failed to review a complaint or protest; or (3) the issue involves violations of Federal law or regulation. The FTA is not obligated to review any protest. Protests addressing the Bis-Man Transit DBE program may be submitted to the U.S. Department of Transportation, Office of Small and Disadvantaged Business Utilization, in accordance with 49 CFR Part 26 and guidance issued there under.

2.0 **POLICIES**

2.1 Ethics

2.1.1 Relationships

In all procurement matters relating to Bis-Man Transit, no Bis-Man Transit employee, officer, board member, legal counsel or other agent, including any member of an evaluation committee for a Bis-Man Transit project, or any member of his/her immediate family, or his/her partner, or any organization employing or about to employ any of the above, shall participate in the selection, award, administration, or performance of a Bis-Man Transit contract if a conflict of interest, real or apparent, would exist. Such a conflict would exist when an employee, officer, or agent of Bis-Man Transit or any member of his/her immediate family, or his/her partner, or an organization employing or about to employ any of the above, has a material financial or other interest in a firm selected for award of a contract. Any interest as owner or stockholder of one percent (1%) or less in such a firm shall not be deemed to be a material financial interest, but serving as Director, officer, consultant, or employee of such an organization would be deemed a material interest.

2.1.2 Gifts and Gratuities

It is Bis-Man Transit policy no employee, officer, or agent of Bis-Man Transit shall solicit or accept, directly or indirectly, any gift or gratuity, favor, entertainment, transportation, lodging, loan or other thing of value from a contractor, potential contractor, or subcontractor which is of such a character as to manifest a substantial and improper

influence upon him/her with respect to assigned duties, or that would give the appearance of such an influence. Unsolicited gifts of nominal intrinsic value shall not be deemed to manifest a substantial and improper influence.

2.1.3 Violations

Violation of this Standard of Conduct/Ethics Policy by any employee shall subject the individual to disciplinary action up to and including discharge as determined by the Executive Director of Bis-Man Transit. Violation of this policy by the Executive Director, officer or agent of Bis-Man Transit shall subject the individual to disciplinary action or sanction as determined by the Bis-Man Transit Board. Violation of this policy by contractors or their agents may be considered a breach of contract and shall subject such contractor or agent to action up to and including cancellation of contract and suspension and debarment from contracting with Bis-Man Transit. Violation of this policy by bidders or potential contractors may be considered to make such bidder or bidder ineligible to bid or render a bid or proposal non-responsive.

2.2 Organizational Conflict of Interest

It shall be Bis-Man Transit policy in soliciting and contracting for goods and services to prevent any real or apparent organizational conflict of interest which would arise when the nature of work to be performed under the proposed contract would result in an unfair competitive advantage to the contractor in the award of future work. No Bis-Man Transit employee will be allowed to bid on any potential contract to avoid the potential for bias in the process. It shall not be a bid or proposal requirement that a prospective vendor or contractor have prior contracts with Bis-Man Transit.

An organizational conflict of interest occurs when any of the following circumstances arise:

- (a) Lack of impartiality or impaired objectivity. When the contractor is unable, or potentially unable to provide impartial and objective assistance or advice to the grantee due to other activities, relationships, contracts, or circumstances.
- (b) Unequal access to information. The contractor has unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract.
- (c) Biased ground rules. During the conduct on an earlier procurement, the contractor has established the ground rules for a future procurement developing specifications, evaluation factors, or similar documents.

Bis-Man Transit is required to analyze potential organizational conflicts at the "requisition" stage and certify on the requisition form that potential organizational conflicts have been analyzed, and document the findings on the Fair and Reasonable Price Form. These forms will be approved by the authorized purchasing personnel.

2.3 Centralized Purchasing Authority

- 2.3.1 The authority and responsibility for the procurement and disposal of all material, equipment, vehicles, property and services for Bis-Man Transit rests with the Executive Director. Occasionally, certain authority or responsibility may be delegated to other staff for a limited period of purpose and always subject to the review by Bis-Man Transit Board of Directors.
- 2.3.2 All purchases of goods and services shall be initiated by a user department through use of a purchase requisition, except where noted herein.
- 2.3.3 Staff is responsible for early involvement of the purchasing process in planning for procurements in order that full and open competition is maximized. This early notification and involvement will range from 90 to 120 days before contract initiation for annual bids for routine materials procurements, to one year or more for major capital purchases.
- 2.3.4 Staff is responsible for providing, in a manner as thorough and complete as possible, Scope of Work or technical specifications for their requirements for Bis-Man Transit. Bis-Man Transit shall assist user departments to define their requirements when requested.
- 2.3.5 Staff may consult with vendors concerning details of their products.
- 2.3.6 All correspondence with a supplier regarding a matter of its contract with Bis-Man Transit, whether relating to the scope of work, specifications, quality of work, delivery, payment, etc., shall be by or through Bis-Man Transit staff.
- 2.3.7 Staff shall be responsible for the conduct of all negotiations with bidders, prospective contractors, or contractors with assistance from the Executive Director and legal counsel.
- 2.3.8 Bis-Man Transit has full authority to question the quantity, kind, and quality of material or services requisitioned, in order to avoid purchase of unnecessary or duplicative items or items of questionable value to Bis-Man Transit, and to consider consolidating or breaking out procurements to obtain economical purchases.
- 2.3.9 Bis-Man Transit may consider and pursue, in the interest of economy and efficiency, the use of Federal, State and local intergovernmental agreements for procurements, agreements for the use of common goods and services, or the use of federal or state excess and surplus property, when it is in the interest of Bis-Man Transit to do so and complies with Federal Transit Administration (FTA)/North Dakota Department of Transportation (NDDOT) requirements and guidelines.

- 2.3.10 It is Bis-Man Transit's responsibility to ensure that awards are made only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement **and in compliance with the requirements of 49 U.S.C 5325(j) and 2 CFR 200.18(k)**. To that end, it will consider such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources in determining whether a potential contractor is responsible.
- 2.3.11 It is Bis-Man Transit's responsibility to maintain records sufficient to detail the significant history of procurement, including, but not limited to: rationale for method of procurement, selection of contract type, selection or rejection of contractors, basis for contract price, contract amendments or change orders, and contract close-out. **Historical procurement records shall be maintained in compliance with 2 CFR Part 200.**
- 2.3.12 The Executive Director shall be responsible for the settlement of all contractual and administrative issues arising out of procurements, including source evaluation, protests, disputes and claims. In dealing with protests, Bis-Man Transit shall follow Bis-Man Transit's written protest procedure (see Section 1.10).
- 2.3.13 Bis-Man Transit shall conduct procurements in a manner that prohibits statutorily or administratively imposed in-state or geographical preferences in evaluation of bids or proposals, except where federal statutes expressly mandate geographic preference.

2.4 Approval Levels for Purchases

The following represent Bis-Man Transit required approval levels for procurement requisitions. Approvals must be obtained before committing Bis-Man Transit funds. The purchasing authority listed below shall be further limited by the approved and adopted Bis-Man Transit fiscal year budget. Any purchase which is not included in the approved and adopted Bis-Man Transit fiscal year budget shall be approved by the Board.

<u>Amount</u>	<u>Approval Required</u>
Up to \$10,000.00	Executive Director
Over \$10,000.00	Bis-Man Transit Board, City of Bismarck Liaison
Over \$25,000.00	Bismarck City Commission (for new equipment)

2.4.1 Emergency Purchases

An emergency is defined as a real and present threat to Bis-Man Transit property, employee welfare, or the provision of transit service that cannot be reasonably alleviated without the purchase in question. In all cases, the Executive Director will be involved.

During normal business hours, the requirement will be addressed to the approval level and the Executive Director, who will coordinate necessary pricing and may issue a purchase order.

After normal business hours, Executive Director will determine whether the matter may be resolved during the next business day. If not, an attempt will be made to secure price quotations from two or more reputable sources, and a purchase made. A requisition will be prepared the next business day and fully documented as to the nature of the emergency, and approval signatures will be obtained

2.5 Disadvantaged Business Enterprises

2.5.1 Program

Federal Transit Administration law requires a certain percentage of the goods and services (exclusive of rolling stock) purchased with federal funds by grant recipients must be dedicated to Disadvantaged Business Enterprises (DBEs). A DBE firm is a small business concern that is at least 51% owned and controlled by one or more socially and economically disadvantaged individuals. A “socially and economically disadvantaged individual” is defined by the federal government as a citizen of the United States who is female and/or African American, Hispanic American, Native American, Asian-Pacific American, or Asian-Indian American.

2.5.2 Policy

It is the policy of Bis-Man Transit to actively encourage and assist DBEs to participate competitively in Bis-Man Transit procurement actions. The Executive Director is Bis-Man Transit’s DBE Liaison Officer (DBELO). The DBELO is responsible for DBE program coordination and enforcement and works closely with the other Bis-Man Transit staff in day-to-day implementation of the program.

The DBE goals are established triennially based on projected expenditures for construction, professional services, materials and supplies, and equipment, and anticipated opportunities to use DBE vendors to fulfill those requirements.

The Executive Director, working as the DBELO, shall take affirmative steps to establish maximum participation of DBE vendors in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.

2.5.3 Award Procedures

All Bids, Proposals, and quotes should be reviewed to ensure that minimum acceptable specifications for those goods and/or services are met. When making purchases, Bis-Man Transit employees who are responsible for purchase decisions should consult the Certification Process list of DBE approved vendors. If such a vendor is identified, the potential contractor should be notified that Bis-Man Transit is considering an expenditure that the DBE firm may be in a position to satisfy. Bis-Man Transit employees should

employ all reasonable means of identifying DBE vendors. If no DBE vendor can be found, the Executive Director should document the steps taken on the purchase requisition form.

2.6 Audits/Inventory of Assets

2.6.1 Real Property Acquisition and Management

Bis-Man Transit shall follow the requirements for acquisition and management of real property specified in Federal Transit Administration Circular 5010.1D, Management of Real Property, Equipment and Supplies. Concurrent with its biennial equipment certification, Bis-Man will review all real property acquired with FTA assistance and certify to FTA what property continues to be needed for project purposes. If excess real property exists, an excess real property utilization plan or plan for disposal shall be prepared and submitted.

2.6.2 Equipment Management Standards

Bis-Man Transit shall follow the requirements for management of equipment purchased with federal funds specified in FTA Circular 5010.1D, Management of Real Property, Equipment and Supplies. At least once every year, Bis-Man Transit will conduct a physical inventory and account for all equipment and other capital assets. The property record maintained for each item shall include:

- (a) Description,
- (b) Identification number,
- (c) Procurement source, (grant number and percent of federal participation)
- (d) Purchase date,
- (e) Purchase cost,
- (f) Use and condition
- (g) Location,
- (h) Date of disposal, if disposed, and
- (i) Sale price or method used for determining fair market value
- (j) Documentation regarding who holds title to the equipment

In connection with the physical inventory of assets, a Certification will be prepared regarding the existence, current use, and continued need for FTA/NDDOT funded equipment. For those items identified as surplus staff will be responsible for developing a plan for disposal for approval by the Executive Director.

2.6.3 Parts and Supplies Inventory

Bis-Man Transit will conduct an annual inventory of parts and supplies (or other method such as cycle counting) to reconcile items in stock versus record of those on hand. The accountant shall prepare a variance report identifying discrepancies and their value.

2.7 Disposition of Surplus Equipment and Supplies/Scrap

2.7.1 Identification of Surplus/Obsolete Materials, Supplies, Equipment and Scrap –

The identification of surplus equipment, material, or scrap shall be the responsibility of Bis-Man Transit staff. Equipment shall be surplus to Bis-Man Transit when it becomes obsolete to Bis-Man Transit because it has been replaced by newer equipment or because the equipment no longer supports the Bis-Man Transit mission. Equipment shall be scrapped only when it is non-functional and non-repairable, and has little or no value unless functional.

Parts are surplus when the part is no longer applicable to the Bis-Man Transit fleet or when stock on hand exceeds the maximum established by the usage history of the item for a period of over one (1) year.

All items identified as surplus or obsolete with a value under \$5,000 must be sold at fair and reasonable prices. All reasonable offers made will be reviewed and approved by Bis-Man Transit Executive Director. Items that the City of Bismarck have an interest in, require approval for disposal of from the City Commission.

2.7.2 Disposition Before End of Service Life

Any disposition of rolling stock before the end of its service life requires prior FTA/NDDOT approval. FTA/NDDOT is reimbursed its share of the proceeds from disposition. If revenue rolling stock is being removed from service before the end of its useful life, the return to FTA/NDDOT is the greater of the FTA/NDDOT share of the unamortized value of the remaining service life per unit, based on straight line depreciation of the original purchase price, or the Federal share of the sales price (even though the unamortized value is \$5,000 or less).

2.7.3 Retain and Use Elsewhere

When original or replacement equipment is no longer needed for the original project or program, it may be used by Bis-Man Transit for other projects or programs. FTA/NDDOT prior approval of this alternative is required. FTA/NDDOT retains its interest if the fair market value of the project property is over \$5,000.

2.7.4 Value Over \$5,000

After the service life of equipment is reached, equipment with a current market value exceeding \$5,000.00 per unit, may be retained or sold, with reimbursement to FTA/NDDOT of an amount calculated by multiplying the total aggregate fair market value at the time of disposition, or the net sales proceeds, by the percentage of FTA/NDDOT participation in the original grant. A Bis-Man Transit transmittal letter should state whether the equipment will be retained or sold.

2.7.5 Less than \$5,000 value

Equipment with a unit market value of \$5,000.00 or less, or supplies with a total aggregate market value of \$5,000.00 or less, may be retained, sold or otherwise

disposed of with no obligation to reimburse FTA/NDDOT, providing useful service life requirements have been met. Records of this action must be retained.

2.7.6 Like-Kind Trade-In or Offset Exchange

With prior FTA approval, Bis-Man Transit may elect to use the trade-in value or the sales proceeds to offset the cost of a replacement bus, applying 100 percent of the net proceeds to acquisition of the replacement vehicle/s. (See 49 *CFR*, Part 18.32; and *Federal Register* pp. 39328/39329, dated August 28, 1992). Remaining cost differences, if more than the proceeds, are to be met by Bis-Man Transit. Excess proceeds, if any, are returned to FTA minus a deduction for pro rata local share.

2.7.7 Transfer to Public Agency for Non-Transit Use

With prior FTA approval, Bis-Man Transit may follow procedures for publication in the *Federal Register* to transfer property (including land or equipment) to a public agency with no repayment to FTA. These procedures are available from the regional FTA office. [49 U.S.C. 5334(g)(1)]

2.7.8 Sell and Use Proceeds for Other Capital Projects

With prior FTA approval, Bis-Man Transit may sell equipment or supplies and use the proceeds to reduce the gross project cost of other FTA eligible capital transit projects. [49 U.S.C., 5334(g)(4)] Bis-Man Transit will record the receipt of the proceeds in its accounting system, showing that the funds are restricted for use in a subsequent capital project, and reduce the liability as the proceeds are applied to one or more FTA approved capital projects. Bis-Man Transit will show on subsequent grant applications that the gross project cost has been reduced with the proceeds from the earlier transaction.

2.7.9 Unused Supplies

Disposition of unused supplies before the end of the industry standard life expectancy is determined in total aggregate fair market value and if found to exceed \$5,000, Bis-Man Transit (or a sub recipient) shall compensate FTA for its share; or transfer the sales proceeds to reduce gross project cost of other capital project(s). [49 U.S.C. 5334(g)(4)].

2.7.10 Disposal of Scrap

Materials, parts, or equipment identified as scrap and having recovery value shall be sold to the highest of three scrap dealers willing to make quotations. The disposition of scrap must be approved by the Executive Director prior to disposition. All sales shall be by cashier's check or cash, unless otherwise approved by the Executive Director.

3.0 RESPONSIBILITIES

3.1 General

The authority to award contracts exceeding \$10,000 rests with Bis-Man Transit Board. This authority is delegated, in part, to the Bis-Man Executive Director who has further delegated responsibilities to subordinates to carry out daily operations.

Bis-Man Transit procurement functions are the responsibility of Bis-Man Transit Staff. The Executive Director is in charge of daily operations and serves as the Bis-Man Transit Contracting Officer. By centralizing authority for purchasing, Bis-Man assures close control of the procurement process and consistent application of Bis-Man policies. The responsibilities of persons involved in the procurement process are described in the following paragraphs.

3.2 Bis-Man Transit Board

- (a) Contracting authority for purchases exceeding \$10,000 spanning total life of contract.
- (b) Establishes agency operating budget and capital plan and budget based on recommendations of Executive Director and staff.
- (c) Approves all purchases over \$10,000.00 resulting from advertised bids, based on Staff's recommendation.
- (d) Authorizes disposal of capital items, with an aggregate fair market value of more than \$5,000.00.
- (e) Sets annual DBE goals based upon recommendation of Bis-Man Transit Executive Director and staff.
- (f) Approves Procurement Policy.

3.3 Executive Director

- (a) Approves all purchases up to \$10,000 and reviews all purchases subject to approval by the Board prior to submittal to the Board.
- (b) May sign any contract with a total cost up to \$10,000 on behalf of Bis-Man Transit. May sign any contract exceeding \$10,000 upon Board approval.
- (c) Approves disposal of surplus materials, supplies, and equipment, with an aggregate fair market value of less than \$5,000.00.
- (d) Approves any changes to internal purchasing procedures and assures compliance with Bis-Man Transit purchasing policies.

(e) Assures that 49 CFR Part 26 and other federal, state and local regulations are adhered to by Bis-Man Transit. Please refer to the Bis-Man Transit DBE Policy for further duties and responsibilities.

3.4 Accountant

Authorizes payments to vendors upon Executive Director verification of receipt.

3.5 Disadvantaged Business Enterprise Liaison Officer (Executive Director)

Assures that 49 CFR Part 26 and other federal, state and local regulations are adhered to by Bis-Man Transit. Please refer to the Bis-Man Transit DBE Policy for further duties and responsibilities.

4.0 ACQUISITION PLANNING

4.1 General

Bis-Man Transit recognizes advance procurement planning is a significant factor in providing and enabling full and open competition **in compliance with 2 CFR Part 200**. Such planning for large or complex procurements will involve the efforts of all personnel responsible for a procurement to coordinate in planning the funding, technical specifications/scope of work, solicitation of award, contract administration, and other matters far enough in advance to assure adequate time to solicit maximum participation by prospective vendors in meeting the requirement. Generally, planning for large or complex non-inventory procurements will begin with the annual budgeting and capital planning process. However, very complex procurements may require advance procurement planning to begin before the annual budget cycle in order to properly identify a project scope and budget.

4.2 Staff Responsibilities

Staff initiating the purchase requisition form are responsible for providing the procurement staff with technical specifications and any necessary drawings for equipment or materials contracts, or a Scope of Work and suggested evaluation criteria for the procurement. Technical specifications or the Scope of Work will set forth the minimum essential characteristics or standards and will not include any features unduly restricting competition. "Brand name or equal" specifications will only be used when it is impractical to provide a clear and accurate technical description of the product, and will to the extent possible describe the relevant functional characteristics of the items to be purchased.

In addition to a purchase requisition, the following must be furnished prior (if appropriate to the purchase):

- (a) Product/service description,
- (b) Desired delivery schedule,
- (c) Technical evaluation criteria in order of merit,
- (d) Special terms and conditions for contract,
- (e) Progress reporting requirements, and
- (f) List of potential vendors (contact name, address and phone number) if response list is incomplete.
- (g) Fair and Reasonable determination on the Purchase Order

Early coordination regarding staff requirements with Executive Director will enable any required assistance to be given in developing the above information in a timely manner. The Executive Director subsequently requires time to develop, advertise, and issue a solicitation, and the proper amount of time must also be given to evaluation and award, including Board approval, before the requirement is needed.

Finally, requires that an independent cost estimate for all purchases of materials, equipment or services be provided before soliciting quotations, bids, or proposals. Staff initiating projects are responsible for providing an independent cost estimate to the Executive Director for the contract file prior to solicitation.

4.3 Planning Major Procurements

In order to provide for a smooth flow of major procurement work, staff will annually convene one or more meetings regarding the annual budget approval process for the purpose of advance procurement planning for the year. The expected result of such meeting(s) will be agreement as to responsibilities for and the general timing of procurement effort for major projects in order that consistency of procurement activity is achieved and timely solicitations are made.

4.4 Planning Routine Procurements

Periodically, but no less often than every six months, the Executive Director will issue to staff an advance schedule of contract expirations and requirements for re-bid for the coming twelve-month period. This schedule will list the contract and its expiration date, person responsible for specifications/scope of work and due date. Planning routine procurements in such a manner enables the Executive Director maximum opportunity to properly schedule non-routine procurement activity.

5.0 METHODS OF PROCUREMENT – BELOW FORMAL BIDDING THRESHOLD

5.1 General

The Executive Director will work with staff to determine the most appropriate method of procurement for their requirements. Purchases will be made by the following methods **and in compliance with 2 CFR Part 200:**

- (a) Micro-purchases
- (b) Small purchase procedures
- (c) Emergency purchases
- (d) Check request/direct pay items
- (e) Invitation for Bids (hereinafter IFB)
- (f) Request for Proposals (hereinafter RFP) or
- (g) Non-competitive procurements

A significant portion of Bis-Man Transit purchasing activity involves purchases of materials or services under the threshold for formal advertising and bidding, generally termed small purchases. Small purchase procedures are covered in this section.

Completion of a purchase requisition is required and the necessary approvals secured prior to the commitment of Bis-Man Transit funds. The only exceptions to this rule are:

- (a) Micro purchases within limits,
- (b) Emergency purchases coordinated through the Executive Director, and
- (c) Direct pay items under existing contracts or with proper prior approvals or authority for expenditure.

5.2 Micro-Purchases

Bis-Man Transit may acquire small-dollar value non-inventory items, property and services valued at less than \$10,000 without obtaining competitive quotes but shall provide for competition whenever practicable. This threshold is below FTA regulations contained in FTA Circular 4220.1F defining small-purchases. Such purchases are exempt from Buy America requirements. There should be equitable distribution among qualified suppliers (in the local area) and no splitting of procurements to avoid competition. The Davis-Bacon Act (40 U.S.C. §3141 et seq.) applies to construction contracts greater than \$2,000. The minimum documentation required is the determination that the price is fair and reasonable and how that determination was derived. The determination of price reasonableness will be recorded on preprinted forms on the receipt or purchase order. The documentation shall employ terminology similar to the following: "The price(s) paid for items hereunder are determined to be fair and reasonable, based on the following:

- (a) Adequate competition (three or more quotes received and award made to lowest)
- (b) Current price lists or off-the-shelf pricing
- (c) Catalog price
- (d) Prices found reasonable on recent previous purchases
- (e) Advertisements
- (f) Similar items in a related industry
- (g) Independent price estimate (attach documentation)
- (h) Other (cite basis)

5.3 Small Purchases

Bis-Man Transit defines small purchases as those relatively simple and informal methods for securing supplies, services, or property that cost more than \$10,000 but do not cost more than \$50,000 in the aggregate. This small purchase threshold is below FTA regulation. If small purchase procedures are used, price or rate quotations shall be solicited from an adequate number of qualified sources. The number of sources will depend upon the availability of qualified sources, but the objective should ordinarily be to obtain quotes from at least three vendors. Both the solicitation and quotes should be written, in either electronic or hard copy form. Generally, the contract will be in the form of a purchase order, although the nature of the procurement (e.g. for services) may require additional terms and conditions.

5.4.1 Bis-Man Transit Competition Guidelines

The competition guidelines expressed below apply only to purchases that are greater than \$50,000 annual threshold requiring formal advertising, solicitation and bid. However, such purchases are not automatically excluded from consideration for formal bidding without advertising if cost-savings or other factors make bidding advisable. The Executive Director and staff will periodically examine proposed expenditures for lines or classes of standard commercial items of material exceeding \$15,000.00 annually, based on 12-month usage history, to determine if cost savings may be realized through a formal bid process.

For all types of purchases less than the statutory threshold for formal bids, competition guidelines will be relieved when the purchase is known to be "sole source" or when there are less than two potential sources available or willing to quote. In such cases, FTA-required procedures for sole-source acquisitions and documentation (see Section 8 Non-Competitive Negotiation) will be followed and all efforts to identify and solicit competitive quotations from an adequate number of vendors will be documented.

-

5.4.2 Check Request/Petty Cash/Direct Pay Items

Certain expenses are incurred without the issuance of a purchase requisition supporting each payment. Such expenses are typically the following types:

- (a) Periodic vendor payments under established vendor contracts or leases
- (b) Utility and telephone bills
- (c) Licenses and permits
- (d) Organizational membership dues, conferences and registration fees, travel advances, and employee reimbursement (may be subject to prior approval)
- (e) Subscriptions to trade journals, periodicals, newspapers
- (f) Postage
- (g) Investigative expenses (background investigations)
- (h) Settlement of claims and litigation
- (i) Minor office supplies

For some of these payments, Bis-Man Transit will receive a bill or invoice and for others, Bis-Man Transit may bear the responsibility for meeting a scheduled payment. These payments shall be made by the Accountant pursuant to approval by the Executive Director.

6.0 FORMAL PROCUREMENT METHODS

6.1 General

When Bis-Man Transit requirements for a line or class of materials to be purchased annually exceeds \$50,000 or rental/lease payments shall exceed \$50,000 annually, or a simple service contract shall be over \$50,000, formally advertised competitive bidding is required. Sealed bids are publicly solicited and a fixed-price (lump sum or unit price) contract is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.

In addition to the above required formally advertised IFB solicitations, Bis-Man Transit may determine in certain circumstances that issuing an IFB with or without formal advertising for a purchase requirement under the annual threshold would be appropriate in order to secure a favorable price or other benefit to Bis-Man Transit.

6.2 Conditions Determining When Formal Advertising is Appropriate

The following conditions should be present for an IFB to be considered:

- (a) A complete, adequate and realistic specification or purchase description is available;
- (b) Two or more responsible bidders are willing and able to compete effectively for the business;
- (c) The procurement lends itself to a firm fixed-price contract and the selection of the successful bidder can be made principally on the basis of price; and
- (d) No discussion with bidders is needed.

If this procurement method is used, the following requirements apply:

- (a) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for public opening of the bids (usually the due date shall not be less than 30 days from the issue date of the IFB);
- (b) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond;
- (c) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- (d) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest;

Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

- (e) Any or all bids may be rejected if there is a sound documented business reason.
- (f) Immediately after the receipt and opening of bids, Bis-Man Transit staff shall examine all bids timely received to determine if they are responsive. Responsiveness is determined at the time of bid opening, and cannot involve any material or information received thereafter. A responsive bid is one that is timely received and which complies with all requirements of the solicitation; it must represent a clear and unequivocal offer to provide the good or services specified at a stated price or prices. Exceptions to the specification or contractual terms, or ambiguous or conditional pricing shall render a bid non-responsive. However, if the terms of the solicitation permit, minor informalities may be waived, defined as matters not affecting the price, schedule, or quality of the bid.
- (g) Bis-Man Transit staff shall determine if the lowest responsive bid was submitted by a responsible bidder. This evaluation considers whether the bidder has in all aspects the ability to successfully perform the contract, including the necessary technical and financial resources; the prior experience and integrity; and capability of providing the specified insurance, bonding, and DBE participation. Price reasonableness is also evaluated in the process. If this evaluation raises concerns regarding the bidder's capability in any of these areas, the bidder should be given a reasonable opportunity to show why it should not be found non-responsible. In the event a bidder is

determined non-responsible, it shall be so notified, and the responsibility of the next-lowest responsive bidder evaluated.

The sealed bid method is the preferred method for procuring any type of construction project, if the conditions in the feasibility paragraphs above apply.

6.3 Public Advertising

Invitations for Bid for purchases over \$50,000, in aggregate or annually, will be publicly advertised at least thirty (30) days before the date that bids will be received. At a minimum, publication will occur on Bis-Man Transit website and or locally in the general newspaper of largest circulation in the Bismarck-Mandan area. As appropriate to the purchase, publication may also be placed in the Local Record, construction or equipment trade journals, transit trade journals, appropriate web sites, etc. to foster competition. In addition to the public notice, bids are to be solicited directly from potential bidders. Any such direct solicitations shall include minority and woman-owned businesses, where practical.

Bis-Man Transit Staff will also maintain Bidders lists for routine types of purchases containing current and prospective vendors. Names of vendors may be added at their request or by the Executive Director.

6.4 Solicitation: Preparation of Invitation for Bid

An IFB is the complete assembly of related documents, either attached or incorporated by reference, and furnished to prospective bidders. It must describe the requirements accurately and completely. The requirements set forth in the IFB may include special qualifications required of potential contractors, life cycle costing, value analysis, and any other criteria such as testing, quality, workmanship, delivery and suitability for a particular purpose which may help in determining acceptability. Unnecessarily restrictive specifications or terms and conditions that unduly limit competition must be avoided. Some situations considered to be restrictive of competition included, but are not limited to:

- (a) Unreasonable requirements placed on firms in order for them to qualify to do business;
- (b) Unnecessary experience or excessive bonding requirements;
- (c) Noncompetitive pricing practices between firms or between affiliated companies;
- (d) Noncompetitive awards to any person or firm on retainer contracts;
- (e) Organizational conflicts of interest. An organizational conflict of interest means that because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to Bis-Man Transit;

a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage;

- (f) The specification of only a "brand name" product without listing its salient characteristics and not allowing "an equal" product to be offered; and
- (g) Any arbitrary action in the procurement process.

IFBs should contain the following information if applicable to the purchase:

- (a) IFB (sequence) number;
- (b) Name and address of Bis-Man Transit;
- (c) Date of issue;
- (d) Date, hour and place of bid opening;
- (e) Requirement for bidder to provide its name and complete address, including street, city, county, state, and ZIP code;
- (f) A statement that bidders should include in the bid the address to which payment should be mailed, if that address is different from that of the bidder;
- (g) Description of material, equipment, or services to be furnished under each item, in sufficient detail to promote competition;
- (h) Provide packaging, packing, preservation, and marking requirements, if any;
- (i) Include inspection, acceptance, quality assurance, and reliability requirements, if any;
- (j) Specify the requirements for time, place, and method of delivery or other performance;
- (k) Permission, if appropriate, to submit bids of alternate material or design (in addition to bid called for);
- (l) Statement that "Bids must set forth full, accurate, and complete information as required by the IFB";
- (m) Bid guarantee, performance and payment bond requirements;
- (n) A minimum bid acceptance period required of the bidder;

- (o) Any special technical specifications;
- (p) Any special provisions relating to progress payments, patents, liquidated damages, etc.;
- (q) Any contract provisions required by federal, state, or local law,
- (r) All factors to be considered in evaluation of bids, such as shipping costs, taxes and surcharges, etc., and how they will be considered,
- (s) How to obtain copies of documents incorporated by reference,
- (t) Instructions regarding how late bids will be handled.

6.5 Solicitation Guidelines

6.5.1 Specifications

Specifications and purchase descriptions will provide accurate descriptions of the technical requirements for the material, equipment or service and will include the procedure for determining whether the requirement has been met. When possible, Bis-Man Transit will state performance specifications defining the expected performance standards the end product is expected to achieve.

6.5.2 Bidding Time

Adequate time will be given between the issuing of bids and the time set for receipt of bids to permit prospective contractors to prepare bids. Generally, no less than 30 days will be allowed for standard commercial items and when purchasing other than standard commercial items, or purchasing services. Complex procurements for certain items of equipment or construction will require significantly longer bidding time.

6.5.3 Distribution of an IFB

An IFB over \$50,000 will be publicly advertised in accordance with Section 6.3. In addition to the public notice, they may be mailed to known prospective vendors. Records of any IFB or bid will be maintained for a reasonable period in order for the vendor to be consulted in preparing a source list for similar any IFB.

6.5.4 Amendment of an IFB

Any change or correction necessary in bid quantities, specifications, delivery schedules, opening date, etc., which is required after issuing any IFB but before bid opening, will be made by issuing an amendment. Any new information given to one prospective bidder will be furnished to all others in the form of an amendment. Consideration will be given to the period of time remaining to opening and the period will be extended in such

amendment, if necessary. Notice of amendment will be furnished to each person furnished an IFB.

6.5.5 Responsiveness of Bids

A bid must comply in all material respects with the IFB, including the method and timeliness of submission. Telegraphic or facsimile bids will not be considered under the competitive sealed bid procedure, unless specifically permitted in the IFB. Bidders are expected to use the Bis-Man Transit bid form, and in failing to do so may be considered non-responsive. Should a bidder submit a bid on its own bid form or a letter, it may only be considered if the bidder specifically states it accepts all terms and conditions of the IFB, and if the award would result in a binding contract not varying from the IFB.

6.5.6 Modification/Withdrawal of Bids

Bids may be modified or withdrawn by written, telegraphic, or facsimile notice or in person if submitted to and received by the Executive Director not later than twenty-four (24) hours before the time set for bid opening. Telegraphic or facsimile modifications or withdrawals will be sealed in an envelope by a Bis-Man Transit official and noted for opening with the bid package. Information will not be disclosed prior to opening.

6.5.7 Time and Place of Bid Submission

The IFB, and public advertisement if advertised, will set forth the time, date, and place for opening of bids. A bidder will not be required to (but may) submit a bid before the time specified for receipt of bids. Bid specifications will set forth the manner in which sealed bids are to be marked and identified as sealed bids. When received by Bis-Man Transit, sealed bids will be date stamped "Received," and the time of receipt noted.

Bids will be publicly opened and read aloud at the time and place designated in the notice. To be considered responsive, bids must be submitted not later than the exact time specified. Late bids will only be accepted if proven to be late due to Bis-Man Transit's mishandling after receipt at its offices.

6.6 Two-Step Sealed Bidding

Two-step sealed bidding is a procurement method involving the submittal of non-priced technical proposals in the first step, and a sealed bid submittal in the second step. Two-step competitive sealed bidding is used when it is impractical to initially prepare a definitive purchase description to support an award based on prices. This method is especially useful in acquisitions requiring technical proposals, particularly those for complex items. In such instances a Request for Proposal is issued requesting the submission of non-priced technical proposals, to be followed by an IFB for a price, limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation. There is no negotiation in the two-step competitive bid process; however, Bis-Man Transit, at its option, may request information from bidders to clarify material contained in their technical proposals.

6.6.1 Conditions for Use

Unless other factors require the use of sealed bidding, two-step sealed bidding may be used in preference to negotiation when all of the following conditions are present:

- (1) Available specifications or purchase descriptions are not definite or complete or may be too restrictive without technical evaluation, and any necessary discussion, of the technical aspects of the requirement to ensure mutual understanding between each bidder and Bis-Man Transit;
- (2) Definite criteria exist for evaluating technical proposals;
- (3) More than one technically-qualified source is expected to be available;
- (4) Sufficient time will be available for use of the two-step method;
- (5) A firm-fixed-price contract or a fixed-price contract with economic price adjustment will be used.
- (6) None of the following precludes the use of two-step sealed bidding:
- (7) Multi-year contracting
- (8) Bis-Man-Transit owned facilities or special tooling be made available to the successful bidder
- (9) A total small business set-aside
- (10) The use of the price evaluation adjustment for small disadvantaged business concerns
- (11) The use of a set-aside or price evaluation preference for small business concerns
- (12) A first or subsequent production quantity is being acquired under a performance specification

6.6.2 Procedures for Two-Step Sealed Bidding

Two-step sealed bidding is a procurement method involving the submittal of non-priced technical proposals in the first step, and a sealed bid submittal in the second step.

6.6.3 The Two-Step process is appropriate when all of the following conditions exist:

- (a) Available specifications or purchase descriptions are not definite or complete or may be too restrictive without technical evaluation and any necessary discussion

of the technical aspects of the requirement to ensure mutual understanding between each source and Bis-Man Transit.

- (b) Definite criteria exist for evaluating technical proposals.
- (c) More than one technically qualified source is expected to be available, and more than one technical solution is considered possible.
- (d) Sufficient time will be available for use of the two-step method.
- (e) A firm-fixed-price contract or a fixed-price contract with economic price adjustment will be used.

6.6.4 Step One

The first step requires bidders to submit technical proposals for evaluation, generally under the procedures for competitively negotiated procurements. Proposals are evaluated for technical merit including, if appropriate, discussions with bidders and requests for revised proposals. The objective of the process is to negotiate one or more technical solutions acceptable to Bis-Man Transit. As part of this process, staff will conduct a responsibility review of each proposer and resolve any concerns in this area. At the end of this step, the providers of acceptable technical solutions will have been identified, and the proposed solutions negotiated to provide a definition of each which meets the requirements for a sealed-bid specification, although in this case, the specification for each will be different, reflecting the proposer's technical approach.

6.6.5 Step Two

Each bidder whose technical proposal as negotiated has been found acceptable is invited to submit a sealed bid to provide the goods or services defined in its negotiated technical proposal. Award is based upon the lowest responsive price from a responsible bidder.

6.7 Competitive Negotiations (Sealed Proposals)

The competitive negotiation procurement process is conducted through a formal Request for Proposals (RFP). This method of procurement is generally used when conditions are not appropriate for the use of sealed bids. This method may be used for acquisition of supplies or services only if staff determines in advance that competitive sealed bidding is not practicable and documents the file accordingly.

Architect/engineering and related services are procured through a variation of the RFP process, as described below.

6.7.1 Competitive Negotiation Method

The competitive negotiation method of procurement is appropriate staff determines the following conditions exist:

- (a) A complete, adequate, and realistic specification or purchase description is not available.
 - (b) Two or more responsible bidders are willing and able to compete effectively for the award.
 - (c) The selection of the successful bidder requires consideration of factors other than price.
 - (e) Discussions with bidders are anticipated to be needed.
- 6.7.2 Each RFP will include a description of the factors other than price by which proposals will be evaluated. Evaluation factors and sub factors will be listed in order of their relative importance. For RFPs other than small purchases, technical and pricing proposals shall be submitted in separate volumes.
- 6.7.3 Bis-Man Transit will appoint persons who have knowledge of procurement subject matter/technology to participate in the Technical Evaluation Panel (TEP). To the extent feasible, the panel members shall represent different staff members within Bis-Man Transit. Each panel member shall be required to disclose any potential conflict of interest, and may be excluded by the Executive Director on that basis. The evaluation process shall be confidential, and each participant shall not share information about the Proposals to individuals outside of the TEP. Technical personnel may be from other public agencies or contractors if necessary, providing there is no conflict of interest. The Executive Director will chair the TEP. The evaluation process is flexible, depending upon the complexity of the procurement, the number and quality of proposals, and the dollar values involved.
- 6.7.4 The TEP will review the technical evaluation factors and their relative importance as included in the RFP. In the event of any concerns, the RFP may be amended accordingly. DBE participation will not be assigned a weight as an evaluation factor, but will be considered as separate factor along with the weighted technical factors for award of the contract. Scoring shall include a description of the strengths and weaknesses of each proposal identified for each factor.

The TEP shall review the scoring, and prepare an initial report of the technical strengths, weaknesses, performance risks (if any) and ambiguities in the proposals, and identify any questions or clarifications desired from the proposers.

The TEP will, in consultation with Bis-Man Transit Staff, identify those proposers whose technical scores in combination with the proposed price gives them a reasonable chance of obtaining the award, eliminating those firms whose proposals are either technically deficient or unreasonably priced; these firms shall be notified by Bis-Man Transit they are no longer under consideration. Any firm so rejected cannot be further considered for

award. The number of remaining firms can vary depending upon the competitiveness of the proposals; while a group of three to five proposals is considered ideal, care should be taken not to eliminate any proposal otherwise qualified for the sake of an arbitrary number.

- 6.7.5 The remaining firms are considered to be in the “competitive range.” The TEP shall determine the need and methods of further exploring the quality and pricing on the proposals. The intent of this process is to ensure each proposal is revised to conform, to the greatest extent possible, to the needs of Bis-Man Transit in the solicitation. These methods may include written questions and answers, and discussions either by telephone or in person. Site visits may also be conducted if appropriate. Questions and discussions need not be identical for each proposer, but should be geared to address the perceived weaknesses of each. In this process, however, care must be taken to avoid giving proposers information from another proposal, which might give the proposer a competitive advantage.
- 6.7.6 At the end of the evaluation process, the TEP will re-score the proposals, using the same evaluation criteria and scoring. Based upon the results of the scoring, the panel may (1) eliminate some of the remaining proposals and conduct further discussions with the rest; (2) determine all firms are still in the competitive range but additional discussions are necessary; or (3) determine further discussions will not significantly affect the outcome of this procurement.
- 6.7.7 When the TEP reaches a determination, further discussion are not likely to significantly affect the outcome of the procurement, the Executive Director shall request each remaining proposer to submit a Best and Final Offer (BAFO), incorporating all revisions developed during the evaluation process. BAFOs may involve a complete resubmittal of both the technical and pricing proposals, suitably revised, or resubmittal of certain sections. When the intent is to incorporate the BAFO into the final contract, a complete resubmittal should be required. BAFOs must be submitted on an equal basis, giving each proposer the same amount of time to prepare, and with a common date and time for receipt. Failure to submit a BAFO by the time identified shall render a proposal non-responsive, unless it is the only BAFO submitted.
- 6.7.8 Following receipt of BAFOs, the TEP shall conduct a final scoring and determine the firm to be recommended for award, ensuring that the BAFO is in all respects acceptable. In rare instances, the TEP may ask the Executive Director to request revisions to the BAFO. The TEP will prepare a final evaluation report to (1) describe the technical strengths, weaknesses, and risks (if any) of the proposals in accordance with the technical evaluation criteria; (2) evaluate the proposal estimated costs for reasonableness (for cost type contracts); or prices offered (for fixed price contracts), and (3) recommend the “best value” offer – the proposal which offers the best combination of technical merit/performance and pricing.

- 6.7.9 The Executive Director shall prepare a summary of the solicitation process, including a record of the negotiation process. This document, together with a copy of all proposals and related documentation is to be kept in the official contract file.

6.8 Architect/Engineer Contracts

FTA Circular 4220.1F incorporates requirements of 40 U.S.C. § 541, known as the “Brooks Act” when contracting for architect/engineer (A&E) services. Other types of services considered A&E include program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, and services which require performance by a registered or licensed architect or engineer. The Brooks Act requires:

- (a) Bidder qualifications are evaluated;
- (b) Price is excluded as an evaluation factor;
- (c) Negotiations be conducted with only the most qualified bidder; and
- (d) Failing agreement on price, negotiations with the next most qualified bidder are conducted until a contract award can be made to the most qualified bidder whose price is fair and reasonable to Bis-Man Transit.

This “qualifications-based procurement method” can only be used for the procurement of A&E services. This method of procurement cannot be used to obtain other types of services even though a firm providing A&E services is also a potential source to perform other types of services.

6.9 Non-Competitive Procurement

Non-competitive (Sole Source) procurements are accomplished through solicitation and acceptance of a proposal from only one source. A contract amendment or change order not within the scope of the original contract is considered a sole source procurement that must comply with this subparagraph. Guidance as to what is “within the scope” of a contract may be found in the FTA Best Practices Procurement Manual, Section 9.2.1- Contract Scope and Cardinal Changes. A ‘Tag-on’ is defined by FTA as additions to the scope of work or deliverable items not included in the original contract competition, and which must be treated as sole source additions to the contract. A Tag-on is not to be treated as a change within the scope of the contract.

- 6.9.1 Procurement by non-competitive proposals may be used when only one source is practicably available and the award of a contract is infeasible under competitive small purchase procedures, sealed bids, or proposals and at least one of the following circumstances applies:

- (a) The item is only available from a single source;

- (b) The public exigency or emergency for the requirement will not permit a delay resulting from competitive negotiations;
 - (c) FTA authorizes noncompetitive negotiations;
 - (d) After solicitation of a number of sources, competition is determined inadequate.
- 6.9.2 After solicitation of a number of sources, competition is determined inadequate and an evaluation of the specifications determines they are not unduly restrictive of competition.
- 6.9.3 Receipt of a single responsive and responsible bid or proposal is not, by itself, conclusive evidence competition was inadequate; the Executive Director must determine if there was a perception of competition which would affect the bid or proposal. Under these circumstances, award is not considered a sole source. Bis-Man Transit staff, however, must investigate the reason why no other bids or proposals were received; verify the specification was not unduly restrictive and the solicitation cannot be modified in a manner resulting in greater competition; and document the file accordingly.
- 6.9.4 A cost analysis is required for each sole source acquisition.

Bis- Man Transit shall obtain a cost analysis when a price analysis will not provide sufficient information to determine the reasonableness of the contract cost. A cost analysis must be obtained when the offeror submits elements (that is, labor hours, overhead, materials, and so forth) of the estimated cost, (such as professional consulting and A&E contracts, and so forth). Bis-Man Transit is also expected to obtain a cost analysis when price competition is inadequate, when only a sole source is available, even if the procurement is a contract modification, or in the event of a change order. However, a cost analysis is not needed if Bis-Man Transit can justify price reasonableness of the proposed contract based on a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. FTA Circular 4220.1F Chapter VI 6. a. Cost Analysis
- 6.9.5 The contract file must include a sole source determination by Bis-Man Transit explaining the reasons for the award on a non-competitive basis. This determination must include a full description of the circumstances, including documentation of efforts to obtain competition, where appropriate.

7.0 Receipt and Evaluation of Bids and Proposals

7.1 Sealed Bids

Sealed bids must be received prior to the exact time specified in the IFB. Late bids are not acceptable, and should be returned to the bidder unopened. Prior to the time set for receipt of bids, staff should check the front desk to ensure no bids have been delivered there, and should be at the place designated for receipt of bids, (usually the building lobby) not less than five minutes prior to the deadline. The envelope of each bid received should be stamped with the date and time of receipt, to verify timeliness. Bids shall be

publicly opened, and the bid prices read. Each bid should be recorded in writing, including the name of the bidder and the bid price. Bids are public documents and bidders have the right to examine the bids of other parties after the bid opening. This should be done in a controlled environment, and not in the place of bid opening.

7.2 Competitive Proposals

Proposals must be received prior to the exact time specified in the RFP, and the Executive Director should follow the same procedure as for sealed bids prior to the deadline for receipt. However, proposals are not publicly opened. A list of proposals shall be made, including the name of the proposer and the number of copies received.

7.3 Responsiveness Review

Both bids and proposals are subject to requirements of responsiveness. This review is conducted by the Executive Director. Usually the requirement of responsiveness for a bid is more complex than for a proposal. This is because a bid is “locked in” at the time of receipt, and proposals are subject to discussions and negotiations. As a result, many items required with a sealed bid need not be submitted with a proposal. Responsiveness looks at the submittal as of the time it was received, and a bidder cannot later correct a deficiency. Any defect in an area of responsiveness requires the rejection of the bid or proposal. As a result, the Executive Director should ensure only items essential to the award be specified as matters of responsibility. The submittal of product samples, for example, is usually better treated as a matter of responsibility. The most usual matters of responsiveness include timeliness of receipt, proper signatures for a commitment by the bidder to provide the items solicited, required DBE submittals, and, where required, bid binds. Proper completion of the pricing form is a matter of responsiveness for sealed bids; any exception to the terms and conditions of an IFB renders a bid non-responsive.

7.4 Responsible Review

The following factors will be considered in determining responsiveness of a bid or proposal:

- (a) Ability and capacity of bidder to provide the materials;
- (b) Integrity, character, and reputation of the bidder;
- (c) Competency and experience of the bidder;
- (d) Past performance record of the bidder;
- (e) And the financial and technical resources of the bidder

8.0 Contract Cost and Price Analysis

8.1 Requirement

A cost or price analysis must be performed for every procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation. FTA “Pricing Guide for Grantees” provides guidance in performing the appropriate degree of cost or price analysis.

8.2 Independent Cost Estimate

Any cost or price analysis must be based on an independent cost estimate, which should be developed before a solicitation is issued, but in no event after the receipt of bids or proposals. For contract modifications, the independent cost estimate must be prepared without knowledge of the contractor's proposed pricing. Each independent cost estimate will include the date, estimated price, and basis of determination.

8.3 Cost Analysis

A cost analysis must be performed when the bidder is required to submit the elements (i.e., labor hours, overhead, materials, etc.) of the estimated cost. A cost analysis is not required when the pricing reflects a catalog or market price of a commercial product sold in substantial quantities to the general public or is based on prices set by law or regulation.

8.3.1 A cost analysis will be necessary when adequate price competition is lacking, including sole source procurements (including contract modifications and change orders), unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or on the basis of prices set by law or regulation. Where change orders involve items for which unit prices are included in the contract, a cost analysis is not required.

8.3.2 Profit is to be negotiated as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, and industry profit rates in the surrounding geographical area for similar work.

8.3.3 Costs or prices based on estimated costs for contracts will be allowable only to the extent the costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles contained in Part 31 of the Federal Acquisition Regulations.

8.4 Price Analysis

A price analysis looks at the price as a whole without examination of its various components. Several techniques may be used in performing a price analysis:

- (a) Comparing prices to those obtained for previous procurements.
- (b) Comparing prices to those obtained by other agencies for like items.
- (c) Comparing the range of prices received for the procurement involved; a price more than 10% higher or lower than the other prices received may raise questions as to whether the bidder interpreted the bid requirements differently. than did the other bidders/proposers, and may render the bid price unreasonable.

- (d) Requiring each bidder/proposer to certify that the prices offered are no higher than those charged other customers for items of similar quality and quantity.

- 8.4.1 Adequate price competition may be determined to exist when the perception of competition exists, even if only one bid or proposal is received; conversely, the receipt of multiple bids or proposals with widely differing prices may not constitute adequate price competition. **If the recipient determines that competition was adequate, a price analysis, rather than a cost analysis, is required to determine the reasonableness of the proposed contract price.**

9.0 CONSTRUCTION CONTRACTS

9.1 General

Under federal laws and regulations, certain special solicitation and contract requirements apply to construction contracts which are not necessarily applicable to non-construction contracts. These special requirements include mandatory requirements for bid bonds, performance bonds, and payment bonds for construction contracts over \$250,000.00, minimum insurance requirements, liquidated damages provisions in contracts, Anti-Kickback provisions and labor provisions applicable to all construction contracts under the Davis-Bacon Act.

Construction contract solicitation and administration requirements will not be covered in detail in this manual/policy. Solicitations and contracts for construction or “public work” activity will require careful review by legal counsel to assure completeness.

9.2 Federal Labor Requirements

9.2.1 Davis-Bacon Act

Bis-Man Transit is subject to the requirements of the Davis-Bacon Act, under which the advertised specifications for every Bis-Man Transit contract over \$2,000.00 for construction, alteration and/or repair, including painting and decorating of public buildings or public works which requires or involves the employment of laborers and/or mechanics, must contain a provision stating the minimum wages to be paid them based on determinations by the Secretary of Labor of local prevailing wage rates for comparable work. The rates must be posted at the site, and the wages must be paid in full no less often than weekly.

A copy of the determination of the Secretary of Labor must be included in each solicitation and the award of any contract must be conditioned upon the contractor accepting the terms of it. As a FTA grantee, Bis-Man Transit must report all reported or suspected violations to the FTA.

9.2.2 Copeland Anti-Kickback Act

Bis-Man Transit is subject to the requirements of the Copeland Anti-Kickback Act (40 U.S.C. § 276c) as supplemented by Department of Labor regulations (29 CFR Part 3) applicable to all contracts or subcontracts for construction or repair. This Act provides that each contractor or subcontractor shall be 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/she is otherwise entitled. Bis-Man is required to report any suspected or reported violations to the FTA.

9.2.3 Contract Work Hours and Safety Standards Act

All contracts issued for construction in excess of \$150,000.00 by Bis-Man Transit or its subcontractors which involves the employment of mechanics or laborers, shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 – 333) as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor will be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of forty (40) hours. Work in excess of the standard work week is permissible provided the worker is compensated at a rate of not less than 1-1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

Section 107 of the Act is applicable to construction work and provides no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and safety, as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

10.0 **CONTRACT ADMINISTRATION**

10.1 Post-Award Responsibilities

Post-award contract administration responsibilities include the following responsibilities:

10.1.1 Monitoring for Contract Compliance

The Executive Director is responsible for monitoring contract compliance. If relying on staff (or Project Manager) for contract compliance monitoring, the Executive Director must assure staff (or Project Manager) gives timely notice of contract compliance problems.

10.1.2 Enforcing Contract Provisions

It is Bis-Man Transit's responsibility to enforce the contract as written or amended. If not enforced, a loss of time or product quality may be incurred.

10.1.3 Issuing Timely Performance and Payment Approvals

The Executive Director is the person with authority to approve contract performance so progress payments or other authorized expenditures of funds to the contractor are made. Bis-Man Transit will develop a process to ensure proper documentation has been reviewed and approved so payment approvals can be made. Timely approvals enable the work to proceed on a timely basis.

10.1.4 Modifying the Contract as Necessary

As the contract work proceeds, modifications or changes may become necessary. After technical considerations are resolved (by project manager), it is the Executive Director who has authority to initiate non-cardinal contract changes on behalf of Bis-Man Transit consistent with the scope of the project.

10.1.5 Closing Out the Contract

When the contract performance is completed, it is the Executive Director's responsibility to close-out the contract.

10.2 Project Management

The Executive Director shall appoint a staff member to serve as the project manager for every project in excess of \$15,000.00 (this excludes purchase of standard items of material exceeding \$15,000.00 per year). It is Bis-Man Transit's responsibility to follow the contractor through the work process, providing technical direction to the contractor regarding the Scope of Work (which defines specific tasks, milestones and review procedures for the specific project). Staff will respond to correspondence on technical matters from the contractor, either orally (then following-up with a written memo to the contract file) or in writing, and shall furnish the Executive Director with a copy of or memorandum reflecting all correspondence with the contractor. Bis-Man Transit staff shall review the progress of all the work on a periodic basis and initiate any required reviews.

The contractor may be required to document the amount of time and money spent on work on a periodic basis as specified by the contract. It is the staff's responsibility to review the contractors' documentation and invoices in relation to the milestones, work expended, and budget, and to advise Bis-Man Transit whether the contractor is in compliance with the contract.

10.3 Contract Amendments and Change Orders

Change orders are amendments to a contract and may be required to adjust a contract quantity or performance period due to unanticipated conditions. Change orders are considered non-competitive procurements and are subject to the same requirements as noted in Section 8. -The Executive Director shall determine whether the proposed change order contains a change in scope, which may be grounds for bidding the extra work. All change orders are subject to Executive Director review and approval. If a change order, or the cumulative effect of all change orders, is to increase the original contract amount by over ten percent (10%) of the original contract amount approved by

the Board, the Executive Director shall submit it to the Bis-Man Transit Board for prior approval before the change is made. Change orders are subject to the availability of funds.

An independent cost estimate and a cost analysis must be performed and filed in the Bis-Man Transit contract file in along with any change order, unless price reasonableness can be established based on catalog or market price of a commercial product or on the basis of prices set by law or regulation.

10.4 Contract Requirements

Contracts established by Bis-Man Transit should set forth the responsibility and rights of each party clearly and completely in order to minimize the potential for conflict, and should set forth the directions for resolutions of disputes, if any. Contracts should include the following elements, as appropriate to the specific purchase.

(a) Statement of Work/Scope of Work

- (1) Contract Objectives
- (2) Contract Scope
- (3) Specifications/Purchase Descriptions
- (4) Progress Report Requirements (consultant/professional services contracts and any contract containing progress payment provisions)

(b) Delivery Schedule

(c) Contract Period

(c) Pricing Schedule (should include description of each line item, quantity, unit of measure, unit price and total price for each item)

(e) Payment Schedule (including special terms such as progress payments and authorities to withhold payments)

(f) Inspection Provisions and Acceptance Criteria

(g) FOB (Free on Board) Point and Delivery Instructions

(h) Other Requirements (if appropriate):

- (1) Identification of key personnel and facilities.

- (2) Extent of subcontracting and consulting.
- (3) Provision for changes by Bis-Man Transit within the general scope of the contract.
- (4) Provision for termination for default by Bis-Man Transit for its convenience and, where appropriate, suspension of the contractor's work under the contract.
- (5) Provisions for resolution of protests (required in solicitation), contract claims and disputes.
- (6) Sanctions or remedies, such as liquidated damages or performance bonds, for contract's non-performance.
- (7) Notice of any FTA or other federal requirements applicable to the contract.

10.5 Assignment of Contract Rights

- (1) Bis-Man Transit shall limit its procurements to the amount of property and services required to meet its reasonably expected needs without adding excess capacity simply for the purpose of assigning contract rights to others at a later date. Bis-Man Transit shall be able to justify the quantities it procures. Bis-Man Transit shall maintain written statements of its anticipated material requirements.
- (2) If Bis-Man Transit awards an indefinite-delivery-indefinite-quantity (IDIQ) contract for supplies or services, the solicitation and contract award shall include both a minimum and maximum quantity representing the foreseeable needs of Bis-Man Transit.
- (3) Bis-Man Transit may find it has inadvertently acquired contract rights in excess of its needs. Bis-Man Transit may assign these contract rights to other eligible public transit systems provided the original contract includes an assignability provision or contains other appropriate assignment provisions. This process is called "piggybacking."

10.5.1 Acquisition Through Assigned Contract Rights

Although FTA does not encourage the practice, Bis-Man Transit may find it useful to acquire contract rights through assignment by another recipient. Bis-Man Transit shall first determine the contract price remains fair and reasonable, and the contract provisions comply with all Federal requirements. Bis-Man Transit does not need to perform a second price analysis if a price analysis was performed for the original contract. Bis-Man Transit shall be responsible for ensuring the contractor's compliance with FTA Buy America requirements and execution of all the required pre-award and post-delivery Buy America review certifications. Before proceeding with the assignment, however, Bis-Man Transit shall review the original contract to be sure that the quantities

the assigning recipient acquired, coupled with the quantities the acquiring recipient seeks, do not exceed the amounts available under the assigning recipient's contract.

10.5.2 Alternatives to Assign Contract Rights

Assignments limit Bis-Man Transit's choices to specify property and services acquired to meet another recipient's particular needs, and may be less suited to Bis-Man Transit needs. Bis-Man Transit may use the following options:

Joint Procurements

Whenever feasible, Bis-Man Transit will consider combining or "pooling" their procurements to obtain better pricing. Joint procurements represent the combined buying power of more than one purchaser at the time when prices are established. A joint procurement offers the advantage of permitting Bis-Man Transit to acquire property and services more closely responsive to Bis-Man Transit material requirements than would be available through assignments of existing contract rights. A joint procurement contract shall include total minimum and maximum quantities.

Intergovernmental Procurements

Federal, state, and local government resources may provide attractive procurement opportunities.

10.6 Impermissible Actions

Bis-Man Transit may not use Federal assistance to finance:

(1) Improper Contract Expansion

A contract has been improperly expanded when it includes a larger scope, greater quantities, or options beyond the recipient's reasonably anticipated needs. A contract has also been improperly expanded when excess capacity has been added primarily to permit assignment of those contract rights to another entity. The Common Grant Rules require the recipient to have procurement procedures that preclude the recipient from acquiring property or services it does not need.

(2) Cardinal Changes

A significant change in contract work (property or services) that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract, is a cardinal change. A change within the scope of the contract (sometimes referred to as an "in-scope" change) is not a cardinal change.

(3) Changes in Quantity

Bis-Man Transit may make a change in quantity in contract work to account for the realities of the marketplace and to make minor adjustments contemplated

fairly and reasonably by the parties when they entered into the contract. (See U.S. Supreme Court decision in *Freund v. United States*, 260 U.S. 60 (1922) .

(4) Tests

Among other things, customary marketing practices can influence the determination of which changes will be “cardinal.” Other tests involve the nature and extent of the work to be performed, the amount of effort involved, whether the change was originally contemplated at the time the original contract was entered into, or the cumulative impact on the contract quantity, quality, costs, and delivery terms.

(5) Rolling Stock

In the case of rolling stock, a major change in quantity or a substitution of major end items not contemplated when competition for the original award took place would generally be a cardinal change. An example of a cardinal change would be a change from a high-floor to a low-floor vehicle. Changing an engine might result in a cardinal change depending on the circumstances surrounding the project and whether a compatible replacement could be obtained through competition. Bis-Man Transit may make changes to seating, fabrics, colors, exterior paint schemes, signage, floor covering and other similar changes.

10.6.1 Federal Procurement Standards

The broader standards applied in Federal contracting practice reflected in Federal Court decisions, Federal Boards of Contract Appeals decisions, and Comptroller General decisions provide guidance in determining whether a change would be treated as a cardinal change. Pursuant to FTA direction, Bis-Man Transit shall consider the collective wisdom within these decisions in determining the nature of third-party contract changes along the broad spectrum between permissible changes and impermissible cardinal changes. For further information and clarification, Bis-Man Transit will consult FTA’s *Best Practices Procurement Manual* and “Frequently Asked Questions” at the FTA Web site: <https://www.transit.dot.gov/funding/procurement/procurement>

10.7 Special Contract Requirements

10.7.1 Liquidated Damages Provisions

Bis-Man Transit shall determine whether or not the use of a liquidated damage provision is appropriate for each specific procurement. The assessment for damages shall be at a specific rate per day for each day of overrun in contract time; and the rate must be specified in the third-party contract. Bis-Man Transit will not include such provisions in contracts unless:

- (a) the time of delivery is of such importance that Bis-Man Transit can reasonably expect to suffer damage if the delivery is delinquent,

(b) Bis-Man Transit determines the delivery schedule is reasonable at the time of contract award, and

(c) damages would be difficult or impossible to establish.

If the Executive Director determines a liquidated damages provision is necessary in a contract, he/she shall document the derivation of the rate of assessment and assure it is reasonable, proper, and not arbitrary. Any liquidated damages recovered shall be credited to the project account involved unless the FTA permits otherwise.

10.7.2 Progress Payment Provisions

The following standards relate to Bis-Man Transit use of progress payment provisions:

(a) Progress payments may be appropriate if:

(1) the contractor will not be able to bill the first delivery of products, or other performance milestones, for a substantial time after work must begin, and

(2) the contractor will make expenditures for contract performance during the period prior to delivery having significant impact on its working capital.

(b) Progress payments may be appropriate for small or DBE businesses if the contractor demonstrates actual financial need or unavailability of private financing.

(c) When progress payments are used, Bis-Man Transit will obtain title to property (i.e., materials, work in progress, and finished goods) for which progress payments are made. Such title must be free of all encumbrances, or Bis-Man Transit will secure a priority lien pursuant to Article 9 of the Uniform Commercial Code and applicable state law and local ordinances. Alternative security for progress payments by irrevocable letter of credit or equivalent means to protect Bis-Man Transit interests in the progress payments may be used in lieu of obtaining title.

10.8 Insurance Provisions

Bis-Man Transit should determine when insurance is required and include in any solicitation and contract document a clause informing contractors of the minimum coverage requirements required by federal or State statutes. When FTA grant funds are used, the minimum requirements shall be as follows:

(a) Contractor Insurance

The contractor shall, at all times during the term of this contract and extended terms thereof, provide and maintain the following types of insurance protecting the interests of Bis-Man Transit and the Bis-Man Transit Board, hereafter referred to as Bis-Man Transit, et al for the remainder of this section, and the Contractor with limits of liability not less than those specified below.

(1) Workers Compensation Insurance**

Providing Statutory Benefits under the Workers Compensation Act of the State of North Dakota and/or any other state or federal law or laws applicable to the Contractor employees performing work under this contract.

(2) Employers Liability Insurance**

With limits of liability not less than \$500,000.00 for each accident, \$500,000.00 for each employee for disease and \$500,000.00 policy limit for disease.

****This insurance must be endorsed with a Waiver of Subrogation Endorsement, waiving the right of recovery for the insured under subrogation or otherwise from Bis-Man Transit et. al.**

(3) Commercial General Liability

Coverage shall carry at least limits of \$500,000.00 for each occurrence of bodily injury and property damage with a general aggregate of \$1,000,000.00 and a products and completed operations aggregate of \$1,000,000.00.

There shall not be any policy exclusions or limitations for contractual liability covering the Contractor obligations herein; personal injury/advertising liability; explosion, collapse and underground property damage hazards; medical payments; fire damage; legal liability; broad form property damage; liability for independent contractors.

(4) Comprehensive Automobile Liability Insurance

Covering all owned, hired and non-owned vehicles used in connection with the work performed under this contract with limits of liability not less than \$1,000,000.00 combined single limit.

(5) Builders Risk Insurance

Against all risks of direct physical loss shall be obtained by the Contractor in an amount of insurance equal at all times to the replacement cost value of all materials on site, in transit, installed, at temporary locations elsewhere, and labor performed. The policy to be insured jointly in the names of the Contractor and Bis-Man Transit et al.

(6) Umbrella Liability

Covering General Liability, Automobile Liability and Employer Liability with limits of not less than \$2,000,000.00.

(7) Certificates of Insurance

Before commencing with this contract, the Contractor shall mail Certificates of Insurance satisfactory to Bis-Man Transit et al (or, as and when Bis-Man Transit et. al may direct, copies of the actual insurance policies) at the following address:

Bis-Man Transit

3750 East Rosser Avenue
Bismarck, ND 58501
ATTN: Executive Director

Certificates from each insurance company evidencing that insurance required by paragraph a, sections 1-5 above are in force, stating policy numbers, dates of expiration, and limits of liability thereunder. All copies of policies and Certificates of Insurance submitted to Bis-Man Transit et al shall be in form and content acceptable to Bis-Man Transit et al.

(8) Approval of Forms and Companies

All insurance described in this contract shall be written by an insurance company or companies satisfactory to Bis-Man Transit et. al and licensed to do business in North Dakota and shall be in form and content satisfactory to Bis-Man Transit et. al. No party subject to the provisions of this contract shall violate or knowingly permit to be violated any of the provisions of the policies of insurance described herein. Except as may otherwise specifically be provided herein to the contrary, all policies of insurance which are in any way related to the work required by this contract shall be endorsed waiving the issuing insurance company's rights of recovery against Bis-Man Transit et al, whether by way of subrogation or otherwise. All insurance should be provided by insurance companies with a current Best's Rating of A- or better.

(9) Additional Insured Endorsement

The policy or policies providing Commercial General Liability, Automobile Liability, Employer Liability and Umbrella Liability coverage and as required above shall be endorsed to name the Bis-Man Transit et al. Additional Insured with respect to operations performed by or on behalf of the Contractor in performance of this contract. The policy shall be endorsed so the Contractor insurance is primary to all programs of insurance and self-insurance carried by Bis-Man Transit et al.

(10) Notice of Cancellation or Material Change

Policies and/or certificates shall specifically provide thirty (30) day written notice of cancellation, non-renewal, or material change to be sent to Bis-Man et al. In the event of cancellation of any policy and/or certificate for nonpayment of premium, Bis-Man Transit et al reserves the right, but is not obligated to pay this premium, and to deduct this cost from final payment to the Contractor for services rendered.

(11) Subcontractors

If any part of the work is sublet, the Contractor shall require any and all subcontractors performing work under this contract to carry insurance of the types and with limits of liability as the Contractor shall deem appropriate and adequate. In the event a subcontractor is unable to furnish adequate insurance required under the contract, the Contractor shall endorse the subcontractor as an Additional

Insured. The Contractor shall obtain and furnish Bis-Man Transit et al certificates of insurance evidencing the subcontractor's insurance coverage.

(12) Multiple Policies

The limits of liability as required above may be provided by a single policy of insurance or a combination of primary, excess or umbrella liability policies. In no event shall the total limit of liability for any one occurrence or accident be less than the amounts shown above.

(13) Deductibles

Companies issuing the insurance policies and the Contractor shall have no recourse against Bis-Man Transit et al for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of the Contractor.

(14) OSHA and Other Regulations

The Contractor shall be responsible for compliance with all safety rules and regulations of the Federal Occupational Safety and Health Act of 1990 and those of all applicable state and local laws or regulations during the conduct of and the Contractor's performance of this contract. The Contractor shall indemnify Bis-Man et al for all fines, penalties and corrective measures that result from the acts of commission or omission of the Contractor, its subcontractors, if any, agents, employees and assignees and their failure to comply with such safety rules and regulations.

Bis-Man Transit, as contract administrator, shall assure a current certificate is on file at all times during performance of the contract.

10.9 Prohibited or Restricted Contract Types

The Common Grant Rule provides more guidance to the Transit System, on prohibited or restricted contract types. The following contract types are restricted or prohibited:

(1) Cost Plus a Percentage of Cost – Prohibited

Pursuant to the Common Grant Rules, Bis-Man Transit shall not use cost plus a percentage of cost plus a percentage of construction cost methods of contracting.

(2) Time and Materials – Restricted

Pursuant to the Common Grant Rules, Bis-Man Transit shall be permitted to use the time and material contracts only if the following conditions are met:

- a. Permitted to Use, Bis-Man Transit has determined no other contract type is suitable; and

(3) Firm Ceiling Price

If the contract specifies a ceiling price the contractor may not exceed except at its own risk.

10.10 Revenue Contracts

Revenue contracts are those third party contracts whose primary purpose is to either generate revenues in connection with a transit related activity, or to create business opportunities utilizing an FTA-funded asset. FTA requires these contracts to be awarded utilizing competitive selection procedures and principles. In accordance with FTA Circular 4220.1 F section 7(n) as amended, the extent of and type of competition required is within the discretionary judgment of the Executive Director. Any Revenue contract which is expected to exceed \$10,000 annually will require approval from the Board. Revenue contracts may have a period of performance beyond 5 years if Bis-Man Transit believes it is in Bis-Man Transit's best interest. (Reason will be documented and contained in the procurement file.)

10.11 Contract Termination Provisions

All contracts over \$10,000.00 shall contain provisions for termination for cause and for convenience by Bis-Man Transit including the manner by which it will be affected and the basis for settlement.

For all contracts in excess of the small purchase threshold, there shall be administrative, contractual or legal remedies in instances where contractors violate or breach the contract terms, including sanctions and penalties as may be appropriate.

The performance of work under a contract containing such provisions may be terminated in part or in whole when staff, in consultation with the Executive Director, the Board, and Legal Counsel (when sought), determines that such termination is in the best interests of Bis-Man Transit. Contracts may be terminated for convenience (i.e., a reduced need or otherwise in the best interests of Bis-Man Transit) or for default (i.e., the contractor has filed to perform under the contract requirements). Contractors will not be granted the right of termination.

When the decision to terminate is made, a "Notice of Termination" shall be sent by the Executive Director to the contractor by certified mail, with a return receipt requested. The Notice of Termination shall specify the reason for termination, the extent to which the performance of work is terminated (i.e., in whole or in part), and the day upon which such termination becomes effective. Settlement of claims shall be made as soon as possible after the issuance of a Notice of Termination/Default to protect the interests of and minimize the liability of Bis-Man Transit. When settlement cannot be made, Bis-Man Transit shall reserve the right to issue a determination of the amount due consistent with the termination clause and applicable cost principles, subject to appeal under the

disputes provisions of the contract.

Bis-Man Transit will consider a no-cost settlement instead of issuing a termination notice when it is known the contractor will accept one, Bis-Man Transit property was not furnished, and there are no outstanding payments, debts due Bis-Man Transit, or other contractor obligations to Bis-Man Transit.

10.12 Buy America Provisions

Procurements involving the purchase of iron, steel and manufactured goods will be subject to the “Buy America” requirements in 49 *CFR* Part 661.

All Bis-Man Transit procurements in excess of \$150,000.00 are subject to the Buy America regulation, which requires that all steel and manufactured products (and cement in construction) have 100% U.S. content and be manufactured in the United States. There are special provisions relating to purchase of buses and communications equipment which require seventy percent (70%) content and final assembly in the United States. In purchasing buses, Bis-Man Transit is required (49 *CFR* Part 663) to conduct a pre-award and post-delivery audit of the manufacturer’s Buy America certification.

49 *CFR* § 661.13(b) requires Bis-Man Transit include a requirement in the solicitation, as a condition of responsiveness, the bidder submit with the bid a completed Buy America certificate in accordance with 49 *CFR* § 661.6 or §661.12, as applicable. There are three implications of this requirement:

- (1) If the certifications are not completed and submitted with the bid, the bid is non-responsive and cannot be considered. Bis-Man Transit cannot go back and ask, in a competitively sealed bidding procurement, for the bidder to complete the certification and submit it after bids are received.
- (2) However, the bidder certifies with its bids (whether or not it will be bound by the applicable requirement), it is bound by that certification and cannot change it after bid opening.
- (3) If the bidder certified it will comply with all the applicable Buy America requirements, it will not be eligible later for a waiver of those requirements.

Buy America Certification forms will be included with each IFB or RFP solicitation and will be required to be executed and submitted with a bid or proposal. Purchases made using small purchase procedures are most often made under a purchase order, in order to set up the account payable. A Bis-Man Transit purchase order states conditions of purchase, including Buy America requirements. It is a condition of the Bis-Man Transit purchase order, when accepting the order, the vendor certifies Buy America requirements are met. In those few instances where a purchase order is not used, Bis-Man Transit will furnish a certification form to the vendor for execution. Once a certification is received from a

vendor for a particular item, it is not necessary to require receipt of a certification for each subsequent purchase provided there is a certification on file for that item.

If a waiver for the Buy America requirements is sought, the following is the process to be followed:

Applications for waivers are processed in accordance with the provisions of 49 *CFR* §661.9. The waiver must be obtained “in a timely manner” through Bis-Man Transit. A Bis-Man Transit request for waiver must be made in writing, and should include all facts and justification to support the waiver, and be submitted to the FTA Administrator through the appropriate FTA Regional Office. The Administrator (or Regional Administrator, in cases where authority has been delegated) will issue a written determination setting forth the reasons for granting or denying the exception request.

10.13 Lobbying Restrictions

The lobbying requirements apply to all contracts and subcontracts of \$100,000 or more at any tier under a Federal grant. 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 any contract of \$100,000 or more, the payor must complete and submit the Standard Form, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

10.14 Transit Vehicle Manufacturer Compliance with DBE Requirements

Before a transit vehicle manufacturer (TVM) may submit a bid or proposal to provide vehicles to be financed with FTA assistance, 49 C.F.R. § 26.49 requires the TVM to submit a certification that it has complied with FTA’s DBE requirements. FTA’s website contains a list of current certified TVMs and it is a best practice to confirm a TVMs certification with the list. If the TVM is not the site list, the Region 8 civil rights officer before awarding the contract.

10.15 Debarment and Suspension (SAM.gov)

It is the responsibility of Bis-Man Transit to check SAM.gov to ensure that the bidder has been deemed responsible and does not appear on the declined or suspended list.

10.16 Federal Provisions and Required Contract Clauses

When federal operating or capital funds are used in a purchase, certain solicitation provisions and required contract clauses must be incorporated in the Bis-Man Transit solicitation and award. These requirements are stated in the Bis-Man Transit FTA Master Agreement, FTA Circulars, and in the various regulations. Some provisions and clauses apply only over certain contract dollar thresholds, and some apply separately to construction and non-construction contracts. A separate contract administrator manual includes these provisions and required clauses.

When including “boilerplate” provisions and contract clauses in an IFB or RFP, the Executive Director will separately reference in bid instructions those provisions and/or clauses which are not applicable to the procurement, and will cross out and initial those inapplicable sections of the “boilerplate” document which is included in the solicitation.

APPENDIX A
SOLICITATION FILE CHECKLIST

Solicitation No.	
Title	
Issue Date	
SOLICITATION DOCUMENTATION	NOTES
Legal Notices	
Posting to Website	
Solicitation	
Independent Cost Estimate	
Vendor List	
Pre-Proposal and Pre-Bid Meeting Documentation	
Amendments and Clarifications	
Record of Approved Equal Status Requests	
Bid Opening Record	
Request for Best and Final Offers	
All Bids and Proposals received (on time)	
OFFER EVALUATION DOCUMENTATION	
Responsiveness	Responsiveness cont'd
Completed and Signed Solicitation/Award	Buy America certification, as applicable
Completed pricing schedule	Bid Bond, as applicable
Acknowledge of Amendments, as applicable	Certificate of Insurance and Insurance Verification
Representations and Certifications complete	Vendor Profiles
DBE Forms	Excluded Parties List verification DBE Participation Goal Verification
Technical Evaluation Panel Reports	Record of Proposer interviews, questions and answers
Record of Past Performances and Verification	Documentation of Reason for Selection or Rejection of an Offer
Record of Financial Capacity	Notice of Solicitation Cancellation, if applicable
Cost or Price analysis	Award Recommendation

APPENDIX B
CONTRACT FILE CHECKLIST

CONTRACT NO.	CONTRACTOR
AWARD DATE	EXPIRATION DATE
CONTRACT DOCUMENTATION	NOTES
Procurement summary, for base contract award, modifications, and contract extensions	
Executed contract	
Notice to Award	
Notice to Proceed	
Executed Contract Modifications (change orders)	
Documentation of Executed Contract Modifications,	
Documentation of the Requirement	
Sole source justification	
Record of Negotiations	
Independent Cost Estimate	
Cost or Price Analysis	
Record of approval at appropriate level	
Record of Funding	
Interested Parties Correspondence	
Internal correspondence, substantiating contract actions or deemed appropriate	
Copy of Bonds, as applicable	
Copy of current Certificate of Insurance	
Completed Contract Closeout Checklist	
Accepted Offer	

APPENDIX C

METHODS OF PROCUREMENT – QUICK REFERENCE

Method	Micro Purchases	Small Purchase (supplies, equipment, services)	Sealed Bids (construction. Supplies, equipment, non-professional services)	Competitive Proposals (supplies, equipment, services)	Non-Competitive (Single or Sole Source)
Threshold	Up to \$10,000	More than \$10,000 up to \$50,000	More than \$50,000 New equipment valued greater than \$25,000 requires City approval	More than \$100,000, if higher than \$10,000 requires Board approval, New equipment valued greater than \$25,000 requires City approval	More than \$25,000, if higher than \$10,000 requires Board approval, New equipment valued greater than \$25,000 requires City approval
Planning	None, unless construction over \$2,000	Purchase Requisition, Technical Specification or Scope of Work, cost estimate, DBE Goal	Purchase Requisition, specification, vendor list, independent cost estimate, DBE Goal, Insurance requirements, schedule	Purchase Requisition, specification, vendor list, independent cost estimate, DBE Goal, Insurance requirements, schedule	Documented justification, Purchase Requisition, Specification or Scope of Work, independent cost estimate, Insurance requirements
Obtain Quotes / Bids / Proposals	At least ONE Quote in writing OR may be off-the shelf pricing for retail items	Scope of Work Reasonable number of Written Quotes (a minimum of three quotes, more if the market permits) Established Evaluation Criteria, Factors, and Relative Importance	IFB, Specification Publicly Advertised, Adequate number of known suppliers, Formal Sealed Bid, Open Bids Publicly	RFP, Scope of Work, Performance or Functional Specification, Advertise, Adequate number of qualified sources, Written Proposal Discussions Expected, BAFO	Only One Reasonably Available Supplier/Contractor, Written Proposal, Acknowledgement and Acceptance of FTA clauses, Completion of Representations and Certifications
Award Purchase Order/ Contract	Single Quote No Competition	Requires Competition Awarded to "Best Value" (usually low Bid)	Firm Fixed Price Awarded to Lowest Responsive and Responsible Bidder. Any and all bids may be rejected	Requires Competition Usually awarded to Best Value (best combination of meeting technical needs and price)	Written Justification, Available only from one known source

APPENDIX C (CONTINUED)
METHODS OF PROCUREMENT – QUICK REFERENCE

Method	Micro Purchases	Small Purchase (supplies, equipment, services)	Sealed Bids (construction, supplies, equipment, non-professional services)	Competitive Proposals (supplies, equipment, services)	Non-Competitive (Single or Sole Source)
Determination of Fair and Reasonable Price	Description of how price is fair and reasonable	Price Analysis	Low Bid	Price Analysis, if adequate competition exists, otherwise Cost Analysis required	Cost Analysis Required, unless basis is catalog or market price of commercial product
Bonding Requirements	Not Required	Not Required	Required for construction Contracts over \$100,000	Usually not required	Required for construction Contracts over \$100,000
Davis-Bacon Wage Rates	Construction contracts over \$2,000	Construction Contracts	Construction Contracts	Construction Contracts	Construction contracts over \$2,000
Buy America Certification	Exempt	Exempt	Required if over \$150,000	Required if over \$150,000	Required if over \$150,000
Excluded Parties List Verification	Not Required	Required if \$25,000 or higher	Required	Required	Required if \$25,000 or higher
Documentation of Rationale / Basis for Award	e.g. "Purchased at off the shelf pricing"	Historical Data or written summary (Findings of Fact)	Written Summary	Written Summary (Findings of Fact and Record of Negotiations)	Written Summary (Findings of Fact and Record of Negotiations)

APPENDIX D
PROVISIONS. CERTIFICATIONS, REPORTS, FORMS, AND OTHER-MATRICES

APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS

(Excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

TYPE OF PROCUREMENT					
PROVISION	Professional Services / A&E	Operations / Management	Rolling Stock Purchase	Construction	Materials & Supplies
No Federal Government Obligation to Third Parties (by Use of a disclaimer)	All	All	All	All	All
False Statements or Claims Civil and Criminal Fraud	All	All	All	All	All
Access to Third Party Contract Records	All	All	All	All	All
Changes to Federal Requirements	All	All	All	All	All
Termination	>\$10,000 if 49 CFR Part 18 Applies	>\$10,000 if 49 CFR Part 18 Applies	>\$10,000 if 49 CFR Part 18 Applies	>\$10,000 if 49 CFR Part 18 Applies	>\$10,000 if 49 CFR Part 18 Applies
Civil Rights (Title VI, EEO, ADA)	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$150,000	>\$150,000	>\$150,000
Resolution of Disputes, Breaches, or Other Litigation	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Water	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000

APPENDIX D (CONTINUED)
PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER-MATRICES

APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS

(Excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

TYPE OF PROCUREMENT					
PROVISION	Professional Services / A&E	Operations / Management	Rolling Stock Purchase	Construction	Materials & Supplies
Cargo Preference			For property transported by ocean vessel	For property transported by ocean vessel	For property transported by ocean vessel
Fly America	For foreign air transport or travel	For foreign air transport or travel	For foreign air transport or travel	For foreign air transport or travel	For foreign air transport or travel
Davis-Bacon Act				>\$2,000	
Contract Work Hours and Safety Standards Act		>\$100,000 (except Transportation services)	>\$100,000	>\$100,000 (including ferry vessels)	
Copeland Anti-Kickback Act Section 1 Section 2				All exceeding \$2,000 (including ferry vessels)	
Bonding				\$100,000	
Seismic Safety	A&E for New Buildings & Additions				
Transit Employee Protective Arrangements		Transit Operations			
Charter Service Operations		All			
School Bus Operations		All			
Drug Use and Testing		Transit Operations			
Alcohol Misuse and Testing		Transit Operations			
Patent Rights	Research & Development				

APPENDIX D (CONTINUED)
PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER-MATRICES

APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS

(Excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

TYPE OF PROCUREMENT					
PROVISION	Professional Services / A&E	Operations / Management	Rolling Stock Purchase	Construction	Materials & Supplies
Rights in Data and Copyright Requirements	Research & Development				
Energy Conservation	All	All	All	All	All
Recycled Products		Contracts for items designated by EPA, when procuring \$10,000 or more per year		Contracts for items designated by EPA, when procuring \$10,000 or more per year	Contracts for items designated by EPA, when procuring \$10,000 or more per year
Conformance with ITS National Architecture	ITS Projects	ITS Projects	ITS Projects	ITS Projects	ITS Projects
ADA Access	A&E	All	All	All	All
Notification of Federal Participation for States	Limited to States	Limited to States	Limited to States	Limited to States	Limited to States

EXHIBIT E

FTA CONTRACT CLAUSES	COMMENTS	MASTER AGREEMENT REFERENCE	"x" – Included "na" – Not Applicable
<i>No Federal government obligations to third-parties by use of a disclaimer</i>	<i>All contracts over \$3,000</i>	<i>§2.f</i>	
<i>Program fraud and false or fraudulent statements and related acts</i>	<i>All contracts over \$3,000</i>	<i>§3.f</i>	
<i>Access to Records</i>	<i>All contracts over \$3,000</i>	<i>§15.t</i>	
<i>Federal changes</i>	<i>All contracts over \$3,000</i>	<i>§2.c(1)</i>	
<i>Civil Rights (EEO, Title VI & ADA</i>	<i>All contracts over \$3,000</i>	<i>§12</i>	
<i>Incorporation of FTA Terms</i>	<i>All contracts over \$3,000</i>	<i>§15.a</i>	
<i>Energy Conservation</i>	<i>All contracts over \$3,000</i>	<i>§26</i>	
<i>Termination provisions</i>	<i>All contracts over \$10,000</i>	<i>§11</i>	
<i>Debarment and Suspension</i>	<i>All contracts over \$25,000</i>	<i>§3.b</i>	
<i>Buy America</i>	<i>When tangible property or construction will be acquired. All contracts over \$150,000</i>	<i>§14.a</i>	
<i>Provisions for resolution of disputes, breaches, or other litigation</i>	<i>All contracts over \$100,000</i>	<i>§56</i>	
<i>Lobbying</i>	<i>All contracts over \$100,000</i>	<i>§3.d</i>	
<i>Clean Air</i>	<i>All contracts over \$100,000</i>	<i>§25.b</i>	
<i>Clean Water</i>	<i>All contracts over \$100,000</i>	<i>§25.c</i>	
<i>Cargo Preference</i>	<i>When acquiring property suitable for shipment by ocean vessel. All contracts over \$100,000</i>	<i>§14.b</i>	
<i>Fly America</i>	<i>When property or persons transported by air between U.S. and foreign destination, or between foreign location. All contracts over \$100,000</i>	<i>§14.c</i>	
<i>Davis Bacon Act</i>	<i>Except for contracts less than \$2,000 or third party contracts for supplies, materials, or articles ordinarily available on the open market</i>	<i>§24.a</i>	
<i>Copeland Anti-Kickback Act Section 1 Section 2</i>	<i>All Construction Contracts over \$2,000</i>	<i>§24.a</i>	
<i>Contract Work Hours & Safety Standards Act</i>	<i>All Construction Contracts over \$2,000</i>	<i>§24.a</i>	

FTA CONTRACT CLAUSES	COMMENTS	MASTER AGREEMENT REFERENCE	"x" – Included "na" – Not Applicable
<i>Bonding for construction activities exceeding \$100,000</i>	5% bid guarantee; 100% performance bond; and Payment bond equal to: <ul style="list-style-type: none"> • 50% for contracts < \$1 M • 40% for contracts > \$1 M, but < \$5 M • \$2.5 M for contracts > \$5 M 	§15.o(1)	
<i>Seismic Safety</i>	<i>All Contracts for construction of new buildings or additions to existing buildings</i>	§23.e	
<i>Nonconstruction Employee Protection (Contract Work Hours and Safety Standards Act)</i>	<i>Applicable to all turnkey, rolling stock and operational contracts (excluding contracts for transportation services) over \$100,000</i>	§24.b	
<i>Transit Employee Protective Arrangements</i>	<i>Applies to Section 5307, 5309, 5311 and 5316 funded operations contracts</i>	§24.d	
<i>Charter Service Operations</i>	<i>All operations contracts</i>	§28	
<i>School Bus Operations</i>	<i>All operations contracts</i>	§29	
<i>Drug and Alcohol Testing</i>	<i>Safety sensitive functions. Applies to Sections 5307, 5309 and 5311 operations contracts</i>	§32.b	
<i>Patent Rights</i>	<i>R&D contracts</i>	§17	
<i>Rights in Data and Copyrights</i>	<i>R&D contracts</i>	§18	
<i>Disadvantaged Business Enterprises (DBEs)</i>	<i>Contracts awarded on the basis of a bid or proposal offering to use DBEs</i>	§12.d	
<i>Prompt Payment and Return of Retainage</i>	<i>Per 49 CFR Part 26, if grantee meets the threshold for a DBE program</i>	§12.d	
<i>Recycled Products</i>	<i>Contracts for items designated by EPA, when procuring \$10,000 or more per year</i>	§15.k	
<i>ADA Access</i>	<i>Contracts for rolling stock or facilities construction/ renovation</i>	§12.g	
<i>Assignability Clause</i>	<i>Piggyback procurements</i>	§15.a	
<i>Special Notification Requirements for States</i>	<i>Applies to contracts awarded by states</i>	§38	
<i>Bus Testing Certification and Report</i>	<i>Obtain prior to award Procurements of buses and modified mass produced vans</i>	§15.n(4)	
<i>TVM Certifications</i>	<i>Obtain prior to award Procurements of buses and modified mass produced vans</i>	§12.d(1)	
<i>Buy America Certification</i>	<i>Obtain signed certification with bid or proposal Procurements of steel, iron or manufactured products over \$150,000</i>	§14.a	
<i>Pre-Award Audit</i>	<i>Obtain prior to award Rolling stock procurements over \$100,000</i>	§15.n(3)	

FTA CONTRACT CLAUSES	COMMENTS	MASTER AGREEMENT REFERENCE	"x" – Included "na" – Not Applicable
<i>Pre-Award Buy America Certification</i>	<i>Sign prior to award Rolling stock procurements over \$100,000</i>	<i>§15.n(3)</i>	
<i>Pre-Award Purchaser's Requirement Certification</i>	<i>Sign prior to award Rolling stock procurements</i>	<i>§15.n(3)</i>	
<i>Post-Delivery Audit</i>	<i>Obtain prior to acceptance Rolling stock procurements over \$100,000</i>	<i>§15.n(3)</i>	
<i>Post-Delivery Buy America Certification</i>	<i>Sign prior to acceptance Rolling stock procurements over \$100,000</i>	<i>§15.n(3)</i>	
<i>Post-Delivery Purchaser's Requirement Certification</i>	<i>Sign prior to acceptance Rolling stock procurements</i>	<i>§15.n(3)</i>	
<i>Contract Administration System</i>	<i>Verify prior to contract award</i>	<i>Ch. III, §3</i>	
<i>Record of Procurement History</i>	<i>Verify prior to payment The file contains a complete procurement history.</i>	<i>Ch. III, §3.d(1)</i>	
<i>Protest Procedures</i>	<i>Verify prior to solicitation</i>	<i>Ch. VII, §1</i>	
<i>Selection Procedures</i>	<i>Verify prior to solicitation The procurement contains a description of contractor selection method.</i>	<i>Ch. III, §3d(1)(c)</i>	
<i>Independent Cost Estimate</i>	<i>Verify prior to solicitation The procurement contains a description of contractor selection method</i>	<i>Ch. VI, §6</i>	
<i>Cost/Price Analysis</i>	<i>Verify prior to award A cost or price analysis is in the procurement file</i>	<i>Ch. VI, §6</i>	
<i>Responsibility Determination</i>	<i>Verify prior to award A contractor responsibility determination is in the procurement file</i>	<i>Ch. VI, §8.b</i>	
<i>Justification for Noncompetitive Awards</i>	<i>Verify prior to award If applicable</i>	<i>Ch. VI, §3.i(1)(b)</i>	
<i>No excessive bonding requirements</i>	<i>Verify prior to solicitation If applicable</i>	<i>Ch. VI, §2.h(1)(f)</i>	
<i>No exclusionary specifications</i>	<i>Verify prior to solicitation</i>	<i>Ch. VI, §2.a(4)</i>	
<i>No geographic preferences</i>	<i>Verify prior to solicitation Except for A&E services</i>	<i>Ch. VI, §2.a(4)(g)</i>	
<i>Evaluation of Options</i>	<i>Verify prior to award If applicable</i>	<i>Ch. VI, §7.b</i>	
<i>Exercise of Options</i>	<i>Verify prior to award If applicable</i>	<i>Ch. V, §7.a</i>	
<i>On-Site Inspector's Report</i>	<i>Obtain prior to acceptance Rolling stock procurements for more than 10 vehicles for areas greater than 200,000 in population and 20 for areas less than 200,000 in population</i>	<i>§15.n(3)</i>	

FTA CONTRACT CLAUSES	COMMENTS	MASTER AGREEMENT REFERENCE	"x" – Included "na" – Not Applicable
<i>Federal Motor Vehicles Safety Standards Pre-Award and Post-Delivery Certification</i>	<i>Obtain prior to award and then sign prior to acceptance Rolling stock procurements</i>	<i>§15.n(3)</i>	
<i>Excluded Parties Listing System search</i>	<i>Perform prior to award Procurements greater than \$25,000</i>	<i>§3.b</i>	
<i>Lobbying Certification</i>	<i>Obtain signed certification with bid or proposals Procurements greater than \$100,000</i>	<i>§3.d(1)</i>	
<i>Standard Form LLL and Quarterly Updates (when required)</i>	<i>Obtain prior to award Procurements greater than \$100,000 where contractor engages in lobbying activities</i>	<i>§3.d(1)</i>	

APPENDIX F
PRE-AWARD AND POST-DELIVERY VEHICLE AUDITS

Pre-Award Buy America:

PRE-AWARD BUY AMERICA COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart B, _____
(the recipient) is satisfied that the buses to be purchased, _____
(number and description of buses) from _____
(the manufacturer), meet the requirements of Section 165(b)(3) of the Surface Transportation Assistance Act
of 1982, as amended. The recipient, or its appointed analyst _____
(the analyst – not the manufacturer or its agent), has reviewed documentation provided by the manufacturer,
which lists (1) the proposed component and subcomponent parts of the buses identified by manufacturer,
country of origin, and cost; and (2) the proposed location of the final assembly point for the buses, including
a description of the activities that will take place at the final assembly point and the cost of final assembly.

Date: _____

Signature: _____ Title: _____

Pre-Award FMVSS Compliance Certification:

PRE-AWARD FMVSS COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart D, _____

(the recipient) certifies that it received, at the pre-award stage, a copy of

_____’s (the manufacturer) self-certification information stating that

the buses, _____ (number and description of buses), will comply with the

relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety

Administration in Title 49 of the Code of Federal Regulations, Part 571.

Date: _____

Signature: _____ Title: _____

Pre-Award Purchasers Requirements Certification:

PRE-AWARD PURCHASER'S REQUIREMENTS CERTIFICATION

_____ (the recipient) certifies that the buses to be purchased, _____ (number and description of buses) from _____ (the manufacturer), are the same product described in the recipient's solicitation specification and that the proposed manufacturer is a responsible manufacturer with the capability to produce a bus that meets the specifications.

Date: _____

Signature: _____ Title: _____

Vehicle Acceptance Inspection Checklist:

Exterior Body

	P	F
Panel Fit	___	___
Window Fit	___	___
Door Fit	___	___
Paint Finish	___	___
Door Operation	___	___
Mud Flaps	___	___
Sealer/Caulking	___	___
Proper Decals	___	___
Water Leaks	___	___
Block Heater Cord	___	___

Exterior Lights

	P	F
Low Headlights	___	___
High Headlights	___	___
Day Running	___	___
Parking Lights	___	___
Clearance Lights	___	___
Brake Lights	___	___
Reverse Lights	___	___
Turn Signals	___	___
Hazards/Flashers	___	___
Entrance Doors	___	___
Reflectors	___	___

Fluid Levels

	P	F
Antifreeze	___	___
A.freeze Protection	___	___
Power Steering	___	___
Washer Fluid	___	___
Engine Oil	___	___
Transmission Fluid	___	___
Brake Fluid	___	___
Tire Pressure	___	___

Lube and Adjust

	P	F
Door Hinges	___	___
Door Seals	___	___
Door Locks	___	___
Doors Push Shut	___	___
Emergency Releases	___	___
Mirrors	___	___
Battery Cables	___	___
Battery Box Door	___	___
Windows	___	___

Interior Lights

	P	F
Drivers Dome	___	___
Passengers Dome	___	___
Stepwell Lights	___	___
Side Door Interior	___	___
Instrument Panel	___	___
Indicator Lights	___	___
Light Monitor Opt	___	___
Intermotive Lights	___	___
Control Panel Lights	___	___

Safety Equipment

	P	F
First Aid Kit	___	___
Fire Extinguisher	___	___
Triangles	___	___
Flares	___	___
Body Fluid Cleanup	___	___
Seat Belt Cutters	___	___
Seat Belt Operation	___	___
All Seats Secure	___	___
Emergency Window	___	___
Roof Hatches	___	___
Mount Items	___	___

Under Inspection	P	F
Front Suspension	___	___
Rear Suspension	___	___
Brake Lines/Hoses	___	___
Exhaust System	___	___
Fuel Lines	___	___
Coolant Values	___	___
Lic. Plate Screws	___	___

Int. Accessories	P	F
Park Brake Light	___	___
Wipers	___	___
Horn	___	___

Heaters	P	F
Check Defrost	___	___
Check Lines	___	___

Prep for Delivery	P	F
Clean Inside	___	___
Clean Outside	___	___
Wax Floor	___	___
Inspections Done	___	___

Wheelchair Equipment	P	F
Brake Interlock	___	___
Lift Operation	___	___
Tie Downs	___	___
Lift Adjustment	___	___
Manual Operation	___	___

Interior Decals	P	F
Capacity	___	___
Exit Windows	___	___
Exit Door	___	___
Warning Signs	___	___

Wheelchair Securements	P	F
Bolt Spacing	___	___
Upper Body Straps	___	___

Road Test	P	F
Gauges	___	___
Steering	___	___
Alignment	___	___
Vibrations	___	___
Road Noise	___	___
Handling	___	___
Emergency Brake	___	___
A/C Operation	___	___
Heater Operation	___	___
Warning Lights Off	___	___
Warning Buzzers Off	___	___
Shift Quality	___	___

Inspector's Signature

Date

POST DELIVERY BUY AMERICA CERTIFICATION:

POST-DELIVERY BUY AMERICA COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart C, _____

(the recipient) certifies that it is satisfied that the buses received,

_____ *(number and description of buses) from*

_____ *(the manufacturer), meet the*

requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The

recipient, or its appointed analyst _____ (the analyst – not the

manufacturer or its agent), has reviewed documentation provided by the manufacturer, which lists (1) the

actual component and subcomponent parts of the buses identified by the manufacturer, country of origin,

and cost; and (2) the actual location of the final assembly point for the buses, including a description of the

activities that took place at the final assembly point and the cost of final assembly.

Date: _____

Signature: _____ Title: _____

POST-DELIVERY FMVSS CERTIFICATION:

POST-DELIVERY FMVSS COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart D, _____

(the recipient) certifies that it received, at the post-delivery stage, a copy of

_____’s (the manufacturer) self-certification information stating that the buses,

_____ (number and description of buses), comply with the

relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety

Administration in Title 49 Code of Federal Regulations, Part 571.

Date: _____

Signature: _____ Title: _____

POST DELIVERY PURCHASERS REQUIREMENT CERTIFICATION:

POST-DELIVERY PURCHASER'S REQUIREMENTS CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart C,

_____ *(the recipient)*

certifies that a resident inspector, _____ (the resident inspector

– not an agent or employee of the manufacturer), was at _____ 's

(the manufacturer) manufacturing site during the period of manufacture of the buses,

_____ *(number and description of buses). The inspector monitored*

manufacturing and completed a report on the manufacture of the buses providing accurate records of all bus

construction activities. The report addresses how the construction and operation of the buses fulfill the

contract specifications. After reviewing the report, visually inspecting the buses, and road testing the buses,

the recipient certifies that the buses meet the contract specifications.

Date: _____

Signature: _____ Title: _____