

# **Request for Proposal**

**VoIP Phone System**

**Branch Area Transit Authority  
Coldwater, Michigan**

**Request for Proposal (RFP)  
RFP BATA phone 2017-0024/P13**

Direct Question To: Ms. Kara Derrickson Director at branchtransit2020@gmail.com by 9/10/24. Questions and answers will be emailed to all vendors by 9/11/24 and posted on branchareatransit.com.

Date Issued: 9/6/24

Date Due: 9/13/24

Proposer Name: \_\_\_\_\_

Submit To: Branch Area Transit Authority  
306 S Clay St  
P O Box 979  
Coldwater, MI 49036

**PROPOSER READ AND COMPLETE**

The undersigned certifies that he/she offers to furnish the materials and services in strict accordance with the requirements of this proposal including any specifications, proposal forms, and terms and conditions that may be attached and that prices quoted are correct.

Signature		Date

Federal ID#: \_\_\_\_\_  
(Precede with "S" if Social Security #)

**SECTION TWO****BACKGROUND INFORMATION**

The Branch Area Transit Authority (hereinafter referred to as "BATA") provides curb-to-curb demand-response public transportation services to the businesses and residents of Branch County, Michigan.

Providing over 130,000 rides annually, BATA services students, adults, seniors, and those with disabilities with sixteen (16) lift equipped vehicles. Around forty percent (40%) of these rides are scheduled, or pre-booked calls with the remaining sixty percent (60%) of calls being booked the same day. With the increased demands placed on the system, BATA is looking for ways to better handle the increased call volume to our call center to provide a better customer experience.

**SCOPE OF WORK****Project Objectives**

BATA currently uses a basic Nortel System with some special features and programming capabilities utilizing 5 lines plus a separate fax line (4 different phone numbers). We are seeking to replace this system with a system that can accommodate the following:

- Accommodate a call center with up to 3 staff at a time, while also serving a business office and maintenance office.
- Can operate on a 10/10 MB fiber connection
- Is easily programmable internally
- Can be operated via a desk phone, or software on a PC

All products must be new and not used or refurbished.

The criteria for evaluating proposals are in the section Proposal Evaluation for Award. BATA reserves the right to award to the responsive, responsible vendor whose proposal represents the Best Value to the BATA. The contract will be a firm, fixed price contract.

**Technical Requirements**

*The Technical Requirements must be met before proposals will be considered for evaluation:*

- Must have a stable, proven communications system with current and up-to-date technology
- The system must be easily managed by BATA staff OR remotely by the vendor if requested by BATA

- Must be able to accommodate at least a 24 line PRI or SIP trunk lines being provided by our fiber connection

#### Hardware Requirements

- Any equipment needed to operate, maintain, and house the system should be included
- Must include 10 desk phones and 1 conference phone

#### Network Configuration Requirements

- BATA currently operates on a Gigabit network (using switches, not hubs) and uses TCP/IP Protocol only
- Must be able to operate effectively and efficiently on a 10/10 MB fiber internet connection

### SPECIFICATIONS

The selected communications system must be capable of the following minimum requirements:

- On-premises/hosted/or hybrid IP based phone system (including all necessary hardware, ancillary equipment, accessories, and programming/configuration, and licenses to make the system fully functional – this includes the PBX, trunk cards, VM modules, patch cables, switches, routes, etc. that may be needed)
- Flexibility to accommodate POTS, T1/PRI, and/or SIP from the service provider
- Flexibility to expand system due to any growth or to support remote workers
- Auto-attendant and custom call routing for the different agency departments
- Multiple, simultaneous, outgoing/incoming call capability
- Standard hold as well as call parking/pickup directed at a specific extension – transfer callers to both internal and external destinations (and direct to voicemail)
- Three-way conference calling
- Ability to configure and handle multiple DID lines
- Voicemail to email notification
- Remote voicemail access
- Caller-ID for incoming calls
- Intercom & paging
- Restricted dialing
- System reporting (call logs and reports)
- Gigabit connectivity for phones (with pass-through connection for a PC or other device)
- Multiple phones to choose from (up to 10 extension/line buttons, PoE capable or PSU supplied) as well as soft phone (software) options
- Must be able to use headsets with each desk phone
- Configurable so calls to call center are only transferred to active agents
- Call center or system wide call recording should be presented as an option
- Ability for agents and staff to manage and route calls on their computers

- Ability for BATA staff to easily change settings and configurations for call greetings and to set schedules for holidays, etc.

**Vendors shall provide the following services:**

- Project management before and during the implementation
- Direction to BATA regarding any infrastructure changes or upgrades necessary to facilitate the implementation of the proposed system
- System installation by qualified/certified personnel performed in a manner that creates little to no downtime for the Agency
- Collaborate with BATA and its telephone, Internet, and IT service providers to ensure timely implementation of the system(s)
- Training (both on-site and in written form) to all BATA personnel and contractors that will use or support the system
- Post-implementation, on-call support for a period of at least one calendar week (4a-6p Mon-Fri and 9a-4p Sat)
- Any necessary programming

**OPTIONS**

**On-Going Support**

A service and support agreement must be presented to BATA as an option, and must be presented separately from the main proposal. The cost of the on-going support must be reported on Attachment A - Price Proposal Form. BATA's minimum requirements for on-going support are:

- Written documentation for system use and administration
- Maximum of 3-4 hours on-site response to any system outage that renders a pre-determined percentage of the system to become degraded
- Ability to obtain support for any issue that cannot be resolved remotely in a pre-determined timeframe
- Ability to replace and reconfigure any failed component (hardware/software)
- Routine maintenance of the system (software/firmware updates and patches, etc.)
- Vendor must be able to escalate unresolved problems direct to the manufacturer

**Extended Warranty**

BATA requires a one-year standard warranty. A two-year extended warranty must be presented to BATA as an option and should be presented separately from the main proposal. The cost of the two-year extended warranty must be reported on Attachment A - Price Proposal Form.

## **QUESTIONS**

Questions on the RFP must be submitted to Kara Derrickson, BATA Director, at branchtransit2020@gmail.com by September 10, 2024 and will be answered in writing. Questions, answers, and any addendums to the RFP will be distributed to every firm sent an RFP, and will be posted on branchareatransit.com.

## **OFFER PREPARATION AND SUBMITTAL**

### **Proposal Content**

The following needs to be included with your proposal:

### **Price Proposal**

The price offered on Attachment A – Price Proposal Form must include the options listed in SECTION TWO: Options.

### **Itemized Costs**

A complete list of detailed, itemized costs related to the project/solution is required and must be attached to the Attachment A - Price Proposal Form.

### **Statement of Proposal**

Provide a narrative statement of your proposal indicating, through the use of drawings, diagrams or other material the way in which you propose to satisfy the requirements outlined in the background statements.

### **Staff and Organization Structure**

Describe the proposed staffing, functioning, and interrelationships with BATA during the project. Identify principal staff personnel by name and qualification as well as any key staff from subcontractors.

### **Prior Experience**

Describe prior or present projects which would tend to substantiate your qualifications to perform this project. Include the name, address, and telephone number of the responsible person of the former client's organization who may be contacted as a reference.

### **Authorized Negotiators**

Provide the names, telephone numbers, and email address of personnel of your organization authorized to negotiate with BATA.

### **Business Organization**

State the full name and address of your organization and, if applicable, the parent or subsidiary entity that will perform or assist in performance of the work contained in your proposal or will provide any assistance. Indicate whether you operate as an individual, partnership or

corporation; if as a corporation, include the state in which you are incorporated. All respondents must indicate their organization's federal identification number.

### **Proof of Insurance**

Proposers must carry the necessary Workers' Compensation Insurance and include a certification to that effect with the proposal. Proposers must also carry adequate insurance to afford protection against all claims for damage to public or private property and injuries to persons arising out of performance of the work. Copies of completed certificates must be included with the proposal.

### **Proposal Submittal**

All organizations must **mail one (1) copy** of their proposal in a **sealed envelope** to Branch Area Transit Authority, ATTN: Kara Derrickson, 306 S Clay St, P O Box 979, Coldwater, MI 49036.

**PAGE 2 OF THE RFP MUST BE SIGNED IN INK BY AN OFFICIAL OF THE SUBMITTING ORGANIZATION** authorized to bind the proposer to the provision of the RFP and **THE SIGNED PAGE 2 MUST BE RETURNED WITH THE PROPOSAL**. Proposals will remain valid for 120 days after the proposal due date.

Mailed proposals must be received by 5 p.m. EST on September 13, 2024 at the Branch Area Transit Authority at 306 S Clay St, P O Box 979, Coldwater, MI 49036. Due to the short timeline for project completion expedited mailing may be required to meet the receipt deadline. Late submissions will not be accepted. BATA reserves the right to postpone the due date for sound, documentable, business reasons.

**This project is funded by the Federal Transit Administration (FTA) and the Michigan Department of Transportation (MDOT). It is subject to federal and state guidelines. The federal requirements of this project are Materials and Supplies Less Than \$250,000 Michigan Department of Transportation 3164 (01/2024) and are attached. A signed copy of Attachment B, pages 10, 11, and 12 and Attachment C of the federal contract clauses must be included with the proposal. The selected firm may have to have a 3<sup>rd</sup> party subcontract approved by MDOT.**

### **MODIFICATIONS AND WITHDRAWALS OF OFFERS**

Proposals may be withdrawn in writing at any time prior to the due date and time. A proposal may also be withdrawn in person by a proposing firm, provided the withdrawal is made prior to the due date and time. The proposing firm must sign a receipt of withdrawal. No proposal may be withdrawn after the due date unless there is material error in the proposal. Withdrawn proposals may be resubmitted, with or without modifications, up to the due date and time. BATA shall require proof of agency authority from the person withdrawing proposal.

## **PROPOSAL EVALUATION FOR AWARD**

The proposals will be evaluated by the Selection Committee using the following selection criteria. The Selection Committee will consist of the agency director, one dispatcher, and one administrative office personnel, assisted by other technical personnel as necessary. Representatives from the firm(s) in a competitive range may be invited to meet in person or by conference phone call with the Selection Committee before the final selection is made. The presentation or conference phone call allows the Selection Committee to discuss any aspects of the proposal needing clarification. Evaluation scores of the non-price criteria may be adjusted based on the results of the presentations.

BATA reserves the right to reject any and all proposals in whole or part for sound documentable business reasons. BATA also reserves the right to award to other than the lowest price proposal and to waive any minor informalities or irregularities. Price is relatively less important than the other criteria as a whole. The selection criteria are listed in order of importance. The criteria are as follows:

**Understanding of the Project's Context and Purpose:** A determination will be made of the proposer's technical soundness, understanding of the project and ability to deliver a comprehensive solution to the requirements of the RFP.

**Prior Experience:** Evaluation will be based on references, samples of work and explanations of similar services.

**Price:** Price will be evaluated using the following formula: lowest proposal price divided by the proposal price being evaluated times available points.

**Capability and Qualifications:** Evaluation will be on the capability of the proposer to complete the RFP requirements and on the qualifications of personnel assigned to successfully complete the project. The identified personnel that work on the project must be the same staff identified in the proposal.

## **TIMELINE OF COMPLETION**

The selected vendor will receive a notice to proceed from BATA. This project will be on a strict timeline. **The entire project must be completed no later than September 27, 2024, therefore the proposer must also show capability and attest it can complete the job on that schedule.** BATA is anticipating an immediate start date.

## **TERMS OF PAYMENT**

The prime contractor will complete the project AND submit an invoice to the Branch Area Transit Authority, 306 S Clay St, P O Box 979, Coldwater, MI 49036 by September 27, 2024 in order to guarantee payment. No payment will be submitted to the State of Michigan for



reimbursement until BATA verifies that the project meets the bid specifications. Upon acceptance, BATA will process payment within 2 weeks of receipt of the invoice. **All invoices shall be itemized.**

### **PROPOSAL PROTESTS**

All protests shall be addressed in writing to BATA. Protests about specifications must be received ten (10) days before the proposal due date. Post award protests may be received by BATA at any time after proposal opening, but not later than five (5) working days after notification to all proposers of the contract award decision. BATA will review and respond within ten (10) days of receiving the protest. BATA is the final arbitrator on any question or dispute pertaining to proposals, proposal forms, and awards. This "disputes" clause does not preclude consideration of questions of law in connection with decisions provided for above; provided that nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

Proposal protests shall contain:

- a) The name and address of the protester
- b) Identification of the project
- c) A statement of the grounds for the protest and any supporting documentation. The grounds for protest shall be fully supported to the extent feasible. Additional materials in support of an initial protest may be permitted only at the sole discretion of BATA.
- d) The relief desired of BATA

## **SECTION THREE**

### **CONTRACTOR FURNISHINGS**

The contractor shall provide all supervision, labor, materials, supplies, parts, tools, transportation and equipment necessary to perform the scope of this project.

### **INDEMNITY PROVISIONS**

The contractor shall indemnify, defend and hold harmless BATA, officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorney's fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

- a) the product provided, performance of the work, duties, responsibilities, actions or omissions of the contractor
- b) breach by the contractor or any representation of warranty made by the contractor in the contract

- c) occurrences that the contractor is required to insure against as provided for in this contract
- d) death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the contractor, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage
- e) any claim, demand, action, citation or legal proceeding against BATA, its employees and agents which results from an act or omission of the contractor or any of its subcontractors in its or their capacity as an employer or person

## **SECTION FOUR**

### **INSPECTION**

Final inspection and acceptance of all work, reports, performance, and other deliverables required under this contract shall be performed at the place of delivery by BATA.

### **ASSIGNMENT**

Neither party may assign, directly or indirectly, all or part of its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

### **IMPACT OF FEDERAL, STATE, AND LOCAL TAXES**

BATA is exempt from Federal, State, and local taxes. BATA will not be responsible for any taxes levied on the respondent as a result of the contract resulting from this RFP.

### **DISPUTES**

The parties shall attempt to resolve any dispute arising out of or relating to this contract through negotiations between senior executives of the parties, who have authority to settle the same. If the matter is not resolved by negotiation within 30 days of receipt of a written 'invitation to negotiate', the parties will attempt to resolve the dispute in good faith through an agreed Alternative Dispute Resolution (ADR) procedure.

## **GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan. All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract.

## **EXAMINATION OF RECORDS**

The proposer who is awarded the contract agrees that the auditor of BATA or an authorized representative from the State of Michigan shall have access to, and the right to examine, audit, excerpt, and transcribe any directly pertinent books, documents, papers, and records of the contractor relating to orders, invoices, or payments of this contract. All records relating to the awarded contract shall be retained for three (3) years after the date of final payment or completion of any required audit.

Compliance with this clause does not relieve a contractor from retaining any records required by other laws or regulations of federal, state, or local government units.

## **ATTACHMENTS**

Attachment A - Price Proposal Form

Attachment B - Materials and Supplies less than \$250,000  
Michigan Department of Transportation 3164 (01/2024)

Attachment C – Certification of Compliance with Federal Contract Clauses

**Attachment A - Price Proposal Form**

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The evaluated price will be the Proposal Price which is the sum of the Base Price plus Option 1 and Option 2, although the Branch Area Transit Authority may choose to not proceed with the options if deemed in its own best interest.

Base Price to meet Technical Requirements \$ \_\_\_\_\_

Option 1 -Ongoing Support \$ \_\_\_\_\_

Option 2 – Two-Year Extended Warranty \$ \_\_\_\_\_

Proposal Price \$ \_\_\_\_\_  
(sum of Base price + Option 1 +Option 2)

Firm Name: \_\_\_\_\_

Signer's Name and Title: \_\_\_\_\_  
(Please print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## MATERIALS AND SUPPLIES LESS THAN \$250,000

Buy America applies to procurements of more than \$150,000

### ACCESS TO RECORDS AND REPORTS

1. **Record Retention.** The Contractor will retain and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other Third-party Contracts of any type, and supporting materials related to those records.
2. **Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 CFR § 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
3. **Access to Records.** The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract in accordance with 2 CFR § 200.337.
4. **Access to the Sites of Performance.** The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

### AMERICANS WITH DISABILITIES ACT (ADA)

The contractor agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

### BUY AMERICA REQUIREMENTS

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 CFR part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7.

Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 11758, div. G, tit. IX, §§ 70911 - 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 CFR § 661.11. Domestic preferences for procurements.

The bidder or offeror must submit to the Agency the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive. For more information, please see the FTA's Buy America webpage at: <https://www.transit.dot.gov/buyamerica>.

### RESTRICTIONS ON LOBBYING

Conditions on use of funds.

- a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.
- c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.
- d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt 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 that loan insurance or guarantee.
- e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt 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 that loan insurance or guarantee.

**Certification and disclosure.**

- a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:
  1. Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or
  2. An award of a federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.
- b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:
  1. A Federal contract, grant, or cooperative agreement exceeding \$100,000; or
  2. A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000,

Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

- c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:
  1. A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
  2. A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
  3. A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.
- d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:
  1. A subcontract exceeding \$100,000 at any tier under a Federal contract;
  2. A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;
  3. A contract or subcontract exceeding \$100,000 at any tier under a federal loan exceeding \$150,000; or,
  4. A contract or subcontract exceeding \$100,000 at any tier under a federal cooperative agreement. Shall file a certification, and a disclosure form, if required, to the next tier above.
- e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.
- f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.
- g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989, effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.
- h) No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart (b) or (c).

**CARGO PREFERENCE REQUIREMENTS**

The contractor agrees:

- a) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "onboard" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA Recipient (through the contractor in the case of a subcontractor's bill-of-lading); and
- c) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

**CIVIL RIGHTS LAWS AND REGULATIONS**

The following Federal Civil Rights laws and regulations apply to all contracts.

1. **Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to:
  - a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
  - b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity", September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

2. **Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25 prohibit discrimination on the basis of sex.
3. **Nondiscrimination on the Basis of Age.** The "Age Discrimination Act of 1975", as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance", 45 CFR part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act", 29 CFR part 1625, also prohibit employment discrimination against individuals aged 40 and over on the basis of age.
4. **Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third-party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

#### Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor", 41 CFR chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment", September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act", 29 CFR part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance", 45 CFR part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
5. **Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

## CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

## DEBARMENT AND SUSPENSION

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment", 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)", 2 CFR part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award.

- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR part 180, subpart C, as supplemented by 2 CFR part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## DISADVANTAGED BUSINESS ENTERPRISE (DBE)

*(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)*

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 CFR part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

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

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the contractor from future bidding as non-responsible. 49 CFR § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 CFR § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 CFR § 26.53(f) (1).

## ENERGY CONSERVATION

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6201).

## EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.



6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## NOTICE TO THIRD-PARTY PARTICIPANTS

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and

Applicable changes to those federal requirements will apply to each Third-party Agreement and parties thereto at any tier.

## FLY AMERICA

- a) Definitions. As used in this clause -
  - 1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. 2) "United States" means the 50 States, the District of Columbia, and outlying areas. 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
- b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:  
Statement of Unavailability of U.S.-Flag Air Carriers  
 International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403 [State reasons].
- e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

## FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

1. The contractor certifies that it:
  - a) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
  - b) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third-party Agreement with the Third-party Participant without FTA's written approval.

2. Flow-Down. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.

## INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions within include, in part, certain Standard Terms and Conditions required under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, detailed in 2 CFR § 200 or as amended by 2 CFR § 1201, or the most recent version of FTA Circular 4220.1 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all mandated terms shall be deemed to control in the event of

a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

## NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Recipient and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Recipient, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## NOTIFICATION TO FTA

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third-party Agreements and must require each Third-party Participant to include an equivalent provision in its sub agreements at every tier, for any agreement that is a "covered transaction" according to 2 CFR §§ 180.220 and 1200.220.

1. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
2. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
3. The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third-party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

## SOLID WASTES

A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

## PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies", 49 CFR part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

## PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

- a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
1. Procure or obtain;
  2. Extend or renew a contract to procure or obtain; or
  3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
    - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
    - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
    - iii. Telecommunications or video surveillance equipment or services procured or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- b) In implementing the prohibition under Public Law 115232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- c) See Public Law 115-232, section 889 for additional information.
- d) See also § 200.471.

## PROMPT PAYMENT

*(Does not apply to projects fully funded by the Tribal Transportation Program (TTP) )*

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

## SAFE OPERATION OF MOTOR VEHICLES

### Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or Agency.

### Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

## SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Applies to States -

- a) To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
1. The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
  2. The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
  3. The amount of federal assistance FTA has provided for a State Program or Project.
- b) Documents - The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

## SEVERABILITY

The Contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

## TERMINATION

### Termination for Convenience (General Provision)

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency's best interest. The Contractor shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

### Termination for Default [Breach or Cause] (General Provision)

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

### Opportunity to Cure (General Provision)

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

### Waiver of Remedies for any Breach

In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

### Termination for Convenience (Professional or Transit Service Contracts)

The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

### Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

### Termination for Default (Transportation Services)

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

### Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. 3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Architect and Engineering)

The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Cost-Type Contracts)

The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, the Contractor shall be paid its contract closeout costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

## **TRAFFICKING IN PERSONS**

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

- a) Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;
- b) Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or
- c) Use forced labor in the performance of the Recipient's Award or subagreements thereunder.

**Federal Certifications**

**CERTIFICATION AND RESTRICTIONS ON LOBBYING**

I, \_\_\_\_\_ hereby certify \_\_\_\_\_  
(Name and Title of official)

On behalf of \_\_\_\_\_ that:  
(Name of Bidder/Company Name)

- No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

NAME OF BIDDER/COMPANY NAME	
TYPE OR PRINT NAME	
SIGNATURE OF AUTHORIZED REPRESENTATIVE	DATE

### GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Recipients, contractors, and subcontractors that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract, or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions; (b) collecting a certification from that person (found below); or (c) adding a clause or condition to the contract or subcontract.

**Instructions for Certification:** By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

1. It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,
2. To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
  - a) Are eligible to participate in covered transactions of any Federal department or agency and are not presently:
    1. Debarred,
    2. Suspended,
    3. Proposed for debarment,
    4. Declared ineligible,
    5. Voluntarily excluded, or
    6. Disqualified,
  - b) Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
    1. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
    2. Violation of any Federal or State antitrust statute, or,
    3. Commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making any false statement, or receiving stolen property,
  - c) It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,
  - d) It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
3. If, at a later time, it receives any information that contradicts the statements of subsections 2.a - 2.d above, it will promptly provide that information to FTA,
  - a) It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
    1. Equals or exceeds \$25,000,
    2. Is for audit services, or,
    3. Requires the consent of a federal official, and
  - b) It will require that each covered lower tier contractor and subcontractor:
    1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
    2. Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
      - a. Debarred from participation in its federally funded Project,
      - b. Suspended from participation in its federally funded Project,
      - c. Proposed for debarment from participation in its federally funded Project,
      - d. Declared ineligible to participate in its federally funded Project,
      - e. Voluntarily excluded from participation in its federally funded Project, or
      - f. Disqualified from participation in its federally funded Project, and
4. It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

**CERTIFICATION**

CONTRACTOR	
2	
SIGNATURE OF AUTHORIZED OFFICIAL	DATE
	03/09/2024
NAME AND TITLE OF CONTRACTOR'S AUTHORIZED OFFICIAL	

**BUY AMERICA CERTIFICATION  
STEEL OR MANUFACTURED PRODUCTS**

If steel, iron, or manufactured products (as defined in 49 CFR 661.3 and 661.5) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder or offeror in accordance with the requirement contained in 49 CFR 661.13(b).

**Certificate of Compliance with Buy America Requirements**

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661.

COMPANY		
NAME	TITLE	
SIGNATURE		DATE

**Certificate of Non-Compliance with Buy America Steel or Manufactured Products Requirements**

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 CFR 661.7.

COMPANY		
NAME	TITLE	
SIGNATURE		DATE



## CERTIFICATION OF COMPLIANCE WITH FEDERAL CONTRACT CLAUSES

As required by Federal Transit Administration Circular FTA C 4220.1F Third-Party Contracting Guidance, Revision 4, March 18, 2013, and all subsequent editions, as available on FTA's website, [www.fta.dot.gov](http://www.fta.dot.gov).

To be used for all procurements over \$10,000 if the federal contract clauses are not included in a third-party contract. Not required for Requests for Quotes (a.k.a small purchases) for items purchased off-the-shelf.\* Third-party contracts are required for procurements of \$100,000 or more.

acknowledges receipt of the **attached** contract clauses and

*(Vendor Name)*

certifies compliance with all federal requirements for \_\_\_\_\_  
*(Product Description)*

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being purchased by  under project authorization  
*(Transit Agency)*

*(Authorization Number)*

VENDOR REPRESENTATIVE	TITLE
SIGNATURE <i>(Vendor representative)</i>	DATE

\* "Off-the-shelf item" means an item produced and placed in stock by a contractor, or stocked by a distributor, before receiving orders or contracts for its sale, Federal Acquisition Regulation (FAR) 46.1-1, issued March 2005. Payment request letters should say when items are procured off-the-shelf. Suggested language is "These tires are off-the-shelf items purchased from Company A Tire who had the tires in stock." or "These tires are off-the-shelf items purchased from Company A Tire, who obtained them from Company B Wholesaling, who had the tires in stock."