

Manchester Transit Authority
110 Elm Street
Manchester, NH 03101-2799

RFP #25-03
Date Issued: April 11, 2025

REQUEST FOR PROPOSALS
NOTICE TO BIDDERS

Notice is hereby given that MTA will receive proposals at 110 Elm Street, Manchester, New Hampshire, 03101 until 3:00pm on May 22, 2025 for auditing services in accordance with the applicable specifications:

RFP 25-03
Annual Auditing Services

Any name appearing on the Comptroller General’s list of ineligible contractors for Federally financed and assisted work is not an eligible bidder. In addition, thereto, a proposal based upon the furnishing of equipment or components thereof, manufactured by such an ineligible contractor, will be ineligible for consideration.

The Contractor will be required to comply with all applicable Equal Employment Opportunity Laws and Regulations.

The right is reserved to accept any proposal or any part or parts thereof, or to reject any or all proposals. The right is reserved to award fewer vehicles, including awarding zero vehicles.

Please note, exhibits 1-1 through 1-4 and any applicable Federal clauses as described within MUST be completed in detail at the time of bid opening.

Proposals must be securely sealed in a suitable envelope and marked on the outside as follows:

RFP 20-03 Annual Auditing Proposal

| | | |
|-------|----------------|------------------|
| Date: | April 11, 2025 | RFP Number 25-03 |
|-------|----------------|------------------|

By: Michael Whitten
Executive Director

Thank you for your interest in public transit projects for MTA. Attached are the solicitation documents and information necessary to participate in the competition. Below is a brief synopsis of the acquisition.

| | |
|-------------------------|--------------------------------------|
| Description of work: | Annual Auditing Services |
| Solicitation type: | Request for Proposals |
| Contract type: | Firm fixed price on a per-unit basis |
| Basis of award: | Proposal with Greatest Value |
| Anticipated award date: | 05/27/2025 |
| Performance period: | See Scope of Work |

Proposals shall be submitted in writing no later than **05/22/2025** at 3:00 PM

Manchester Transit Authority
Attn: Michael Whitten RFP 25-03
110 Elm Street
Manchester, NH 03101

Certifications are available in Section 2 and must be completed if required under the Federal threshold levels described.

The audit must be made in accordance with Government Auditing Standards issued by the Comptroller General of the United States.

All Federal grants awarded to the MTA will be reported according to Government Auditing Standards and OMB Circular A133. A separate management letter which shall include general recommendations concerning financial statements, accounting systems, internal control and other material findings affecting the MTA shall be provided.

Additionally, there are three (3) documents that are required to be completed for MTA.

They are:

- Exhibit 1.1 Bid Proposal Form
- Exhibit 1.2 Approved Equals (If submitting approved equals requests)
- Exhibit 1.3 Amendment Page (If Amendments are submitted)

MTA

PROPOSAL SECTION NUMBER 1

TERMS AND CONDITIONS

General

1. Proposals will be received by the Executive Director, MTA, Manchester, New Hampshire, at the place and until the time specified in the Notice to Bidders and then publicly read aloud for the information of bidders and others who may be present either in person or by representative. NO PROPOSAL WILL BE ACCEPTED AFTER TIME AND DATE SPECIFIED.
2. The following meanings are attached to the defined words when used in this PROPOSAL form.
 - (a) The word "MTA" means the Manchester Transit Authority.
 - (b) The word "Bidder" means the person, firm, or corporation submitting a proposal on this specification or any part thereof.
 - (c) The word "Contractor" means the person, firm, or corporation with whom the Contract is made by carrying out the provisions of this RFP and the Contract.
3. Strict compliance with the requirements of the Notice to Bidders, Terms and Conditions, and the instructions printed on the forms is necessary. All designations and prices shall be fully and clearly set forth. All blank spaces in the RFP forms shall be suitably filled in. For the convenience of bidders, RFP forms are provided in this Solicitation.
4. Each proposal must give the full business address of bidder and be signed by him/her with his/her usual signature. Proposals by partnerships must furnish the full names of all partners and must be signed with the partnership name by one of the members of the partnership or by an authorized representative, following by the signature and title of the person signing. Proposals by corporations must be signed with the legal name of the corporation, followed by the State of incorporation and by the signature and title of the president, secretary, or other person authorized to bind it in the matter. The name of each person signing shall also be typed or printed below the signature. Proposal by a

person who affixes to his/her signature the word "president," "secretary," "agent," or other title without disclosing his/her principal may be held to be the proposal of the individual signing. When requested by the Executive Director, MTA, satisfactory evidence of the authority of the officer signing on behalf of the corporation shall be furnished.

5. Bidder shall submit an original (printed) and one electronic copy of his Proposal. Proposals must be securely sealed in a suitable envelope, addressed, and marked on the outside as follows:

Annual Auditing Services

Date: 05/22/2025

RFP Number: 25-03

MTA is not responsible for proposals not properly marked.

6. Proposal security or proposal bond: Not Required.
7. Changes to the Specifications will be made by written addendum by MTA and will be forwarded to all persons and firms to whom documents have been submitted.
8. No oral interpretations will be made to any Bidder as to the meaning of the specifications or terms and conditions of this RFP. Every request for such interpretation or requests for a change in the specifications or terms and conditions shall be made in writing and addressed and forwarded to the Executive Director, MTA, 110 Elm Street, Manchester, New Hampshire, 03101 in accordance with the Approved Equals provisions to follow. Any unapproved deviations, exceptions, substitutes, alternates or conditional qualifications contained in a proposal may be cause for its rejection.
9. Proposals may be withdrawn prior to the closing time for receipt of proposals. A request to withdraw a proposal must be submitted in writing and signed by the bidder. No requests to withdraw a proposal will be accepted if they are verbal or submitted after the closing time. Negligence on the part of the Bidder in preparing the proposal confers no right for the withdrawal of the proposal after it has been opened.
10. Proposals may be modified by the bidder prior to the closing time for receipt of proposals. Modifications must be submitted in writing and signed by the bidder. Only additions or subtractions to the bidder's original proposal should be stated. Prices are not to be stated. No verbal modifications will be accepted after the closing time.

11. A proposal may be withdrawn or modified by facsimile communication provided such communication is signed by the person signing the original document and the facsimile is received by MTA prior to the closing time for the receipt of proposals.
12. MTA reserves the right to postpone the proposal opening for its own convenience and to waive any informality in proposals and to reject any and all proposals, wholly or in part, and to make awards in a manner deemed in the best interests of MTA.
13. Approved Equals
 - (a) In all cases, materials must be furnished as specified. Where brand names or specific items are used in the specifications, consider the term "or approved equal" to follow.
 - (b) Any unauthorized deviations, exceptions, substitutions, alternates, or conditional qualifications contained in a proposal may be cause for its rejection.
 - (c) If a potential bidder feels that his product is an equal to the product specified he must submit a written request to MTA.
 - (d) Requests for approved equals, clarification of Specifications, and protest of Specifications must be received by MTA, in writing no later than **May 2** to allow analysis of the request. Any request for an approved equal or protest of the Specifications must be fully supported with catalog information, specifications and illustrations or other pertinent information as evidence that the substitute offered is equal to or better than the Specifications' requirement. Where an approved equal is requested, the Contractor must demonstrate the quality of his product to the MTA and must furnish sufficient information to enable the MTA to determine whether the product is or is not equal to that specified. Written requests may be submitted electronically to mwhitten@mtabus.org
 - (e) MTA replies to request under paragraph (d) above will be emailed by May 13 end of business.
 - (f) A notice of approved equals shall be furnished to all parties receiving specifications so that all bidders may propose accordingly.

- (g) Appeal from the decisions of MTA to approve or disapprove approved equal status shall be submitted in writing to the Executive Director, MTA, 110 Elm Street, Manchester, New Hampshire, 03101, not later than five (5) days from the date of MTA's decision. The appeal shall, at a minimum, identify the decision in question, specify all reasons why the appealing party disagrees with the decision, and shall include all facts and justification, including technical information, in support of its position. The Executive Director may request additional information from the appealing party and information or a response from the bidders, which shall likewise be submitted in writing to the Executive Director not later than five (5) days from the date of MTA's request. So far as practicable, appeals will be decided upon the basis of the written appeal, information and written responses submitted by the appealing party and other bidders; all parties are urged to make written submissions as complete as possible. Failure of any party to timely respond to a request for information may be deemed by MTA that such party does not desire to participate in the proceeding, does not contest the matter, or does not desire to submit a response, and in such event the appeal will proceed and will not be delayed due to the lack of a response. Upon receipt and review of written submissions and any independent investigation deemed appropriate by MTA, the Executive Director shall either (a) render a decision which shall be final and advise all interested parties of same in writing or (b) at the sole election of the Executive Director, conduct an informal hearing at which the interested participating parties will be afforded an opportunity to present their respective positions and facts, documents, justification and technical information in support thereof. Parties may, but are not required to be represented by counsel at the informal hearing, which will not be subject to formal rules of evidence or procedure. Following the informal hearing the Executive Director shall render a decision that shall be final and advise all interested parties thereof in writing.
14. The Bidder shall familiarize him/herself with the location of facilities and of the areas of responsibility and labor therein. Failure to do so will not relieve a successful bidder of his obligation to furnish all labor necessary to carry out the provisions of this contract. Insofar as possible in carrying out his work, the Contractor must employ such methods and/or means to not cause any interruption of or interference with operations of MTA.
15. MTA, through the Executive Director, reserves the right to allow for any change in operating conditions or for any other cause not now foreseen and to proportion required services or supplies according to available facilities. In

addition, MTA reserves the right to negotiate with the successful Contractor for additional work required.

16. In submitting his proposal, the Bidder certifies that no official or employee of the City of Manchester or MTA has any interest in the proposal or in the Contract which the Bidder offers to execute, or in the expected profits to arise therefrom, and that his proposal is made in good faith without fraud or collusion or connection with any other person submitting a proposal.
17. MTA may make such investigations as it deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to MTA all such information and data for this purpose as MTA may request. MTA reserves the right to reject any proposal if the evidence submitted by, or investigation of, such bidder fails to satisfy MTA that such bidder is properly qualified to carry out the obligations of the contract.
18. Proposals shall be evaluated and selection made on the basis of demonstrated competence and qualification for the services required at a fair and reasonable price. In addition to price, and where applicable to a particular project, factors such as the following shall be used in awarding the contract.
 - (1) Specific experience with similar projects.
 - (2) Specific experience with earlier phases of the same project.
 - (3) Background and experience of staff members who would be assigned to the job.
 - (4) Availability.
 - (5) Locality of firm.
 - (6) Ability to communicate ideas.
 - (7) Ability to supply all the major disciplines necessary to perform the work.
 - (8) Conceptual design.
 - (9) Accuracy of the firm in estimating time and cost requirements.
 - (10) Size of local office.

Interviews of firms most meeting the aforementioned criteria will be a part of the selection process.

The following weighting metric shall be used to determine "highest value" from those proposers who satisfy the above metrics.

Auditing Firm Experience 40%

Auditing Cost over period 40%
Delivery Date: 20%

19. Bidder Qualifications:

Proposals will be accepted from firms of Certified Public Accountants licensed to do business in the State of New Hampshire.

Firms should have significant experience similar to the type of audit requested. A listing of such audits shall accompany each proposal. Three professional references (name, contact person, address, and phone) shall also be supplied.

The name, background and experience of the individual in charge of the audit shall be included, as well as the key audit personnel expected to participate in this audit. This identification shall include whether they are certified or licensed as a Certified Public Accountant by the State of New Hampshire. The firm agrees not to reassign the person in charge of the audit without the Executive Director's prior approval.

20. Anticipated Duration of Contract:

MTA is seeking a three year initial contract with two one year extension options.

21. Assignability:

The terms and provisions of the Contract Documents shall be binding upon MTA and the Contractor and their respective partners, successors, heirs, executors, administrators, assigns, and legal representatives.

22. Pricing:

The price to be quoted in any proposal submitted shall include all labor, materials, tools, equipment, and other costs necessary to fully complete the project in accordance with the specifications. Anything omitted from this specification that is clearly necessary for the completion of the item and its appurtenances shall be considered a portion of such proposal item although not directly specified or called for in these specifications. Bidder will not include any discounts in the proposal pricing. However, MTA will accept any discounts offered during the course of the contract.

23. Terms of Payment:

Bidder should note any discounts for payment before thirty (30) days.
Corresponding bills of lading must be shown on the invoicing.

24. Purchases are exempt from payment of all Federal, State and local sales and excise taxes in connection with the Project. Said taxes must not be included in proposal prices. Purchaser will provide necessary tax exemption certificates to supplier.
25. Proposal Acceptance:

Each proposal will be submitted with the understanding that the acceptance in writing by purchaser of the offer to furnish any or all of the items described therein, shall constitute a contract between the bidder and the purchaser which shall bind the bidder on his part to furnish and deliver at his proposal price, and in accordance with conditions of said accepted proposal and specifications.
26. The Contract Agreement will be in the form customarily employed by MTA and will incorporate the Notice to Bidders, the Terms, Conditions, and all contents of this RFP, and the entire contents of the Bidder's proposal.
27. The Revised Statutes Annotated of the State of New Hampshire, insofar as they apply to the laws of competitive proposing, contracts, and purchases, are made a part hereof.
28. Audit Timeline

The audits must begin no later than thirty (30) days after the close of the fiscal year. Pre-audit conferences, planning and training sessions could begin once a contract has been signed.

The completed audit report for each year shall be presented to the MTA Board of Commissioners, on or within, one hundred and twenty (120) days of the commencement of such audit. If the condition of the accounts of the MTA requires more time than has been allowed for the audit, the Executive Director of the MTA shall be notified and his/her approval obtained prior to the commencement of any extra work or any extension of time. In no event should extensions of time be requested beyond February 1st of any fiscal year.

29. Miscellaneous Contract Provisions

- a. Contractor warrants that it has not been paid any bonus or commission for the purpose of obtaining this Contract.
- b. The failure of MTA at any time to insist upon a strict performance of any terms, conditions and covenants herein shall not be deemed a waiver of any subsequent breach or default of the terms, conditions, and covenants herein contained.
- c. Contractor shall not assign any interest or obligation in this Contract, and Contractor shall not transfer any interest in the same (whether it be assignment or notation), without the prior written consent of MTA.
- d. Any proposed change or modification of this Contract shall be submitted in writing to MTA for its prior approval. All changes shall be by written agreement of MTA and Contractor.
- e. The Proposal submitted by the Contractor is incorporated herein by reference as if fully set forth verbatim herein. In the event of conflict between this Contract and Proposal, the provisions of this Contract shall control.
- f. This Contract, except as set forth in the preceding paragraph, represents the entire and integrated Agreement between MTA and the Contractor and supersedes all prior negotiations, statements, instructions, and representations or agreements, whether written or oral.

This Contract may not be modified, amended or assigned except by written agreement duly signed by both parties.

- g. At the election of MTA, the invalidity or illegality of any provisions of this Contract, other than arising from the fiscal inability of MTA to pay the compensation due to the Contractor as same becomes due, as determined by a court of last resort of competent jurisdiction, shall not affect the validity of the remainder of this Contract, and this Contract shall remain in full force and effect as if such illegal or invalid provisions were not contained herein.

The Accounting Department's staff will be available on a limited basis to work with you and assist as may be reasonably necessary. Thereafter, it is expected that subsequent audits performed by the successful proposer will continue to utilize the same audit personnel to the extent permissible in order to minimize future MTA staff time and costs. A statement to this effect would be expected. Substantial changes in staff for subsequent years may result in rebidding. The MTA shall be advised of the firm's personnel to be assigned by April 1 of each subsequent year.

PROPOSAL SECTION NUMBER 2

REQUIRED CONTRACT CERTIFICATIONS

Please note, as a service contract not all Federal clauses will be applicable.

Federal Transit Administration Requirements for Professional Services

Agreement of federal clauses as described below to proceed with purchase by Manchester Transit Authority, 110 Elm St. Manchester, NH 03101

As a recipient of Federal Transportation Administration (FTA) grants, Manchester Transit Authority (MTA) agrees annually in the Master Agreement with FTA to adhere to all applicable federal laws, regulations, and directives associated with federal funding along with the FTA Certifications and Assurances for Federal Funding Assistance Program. MTA Contractors are also required to comply with those federal clauses to which are herein incorporated by reference and made a part of this Agreement.

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.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

(applies to all contracts)

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.

ACCESS TO RECORDS AND REPORTS

(applies to all contracts)

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.

Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 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.

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.

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)

(applies to all contracts)

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.

CIVIL RIGHTS LAWS AND REGULATIONS

(applies to all contracts)

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

Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to: 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.

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.

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 C.F.R. part 25 prohibit discrimination on the basis of sex.

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 C.F.R. 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 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

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. 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.

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 C.F.R. 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.

Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621- 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. 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 C.F.R. 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.

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.

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.

EQUAL EMPLOYMENT OPPORTUNITY

(applies to all contracts)

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

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.

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. 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.

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.

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. 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.

In the event of the contractor's non-compliance 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.

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.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

(applies to all contracts)

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 C.F.R. 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 C.F.R. 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:

Withholding monthly progress payments;
Assessing sanctions;
Liquidated damages; and/or
Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 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 C.F.R. § 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 C.F.R. § 26.53(f) (1).

ENERGY CONSERVATION

(applies to all contracts)

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).

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

(applies to all contracts)

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.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

(applies to all contracts)

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 C.F.R. 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.

(applies to all contracts)

Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to: Procure or obtain; Extend or renew a contract to procure or obtain; or Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunication 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 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

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). Telecommunications or video surveillance services provided by such entities or using such equipment.

Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

In implementing the prohibition under Public Law 115-232, 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.

See Public Law 115-232, section 889 for additional information.

See also § 200.471.

PROMPT PAYMENT

(applies to all contracts)

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

(applies to all contracts)

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.

CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

(applies to all contracts with Intelligent Transportation Systems)

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).

FLY AMERICA

(applies to contracts including Foreign Air Transportation / Travel)

Definitions. As used in this clause—

“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.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C.

Chapter 411.

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.

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. 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]:

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.

DEBARMENT AND SUSPENSION

(applies to all contracts exceeding \$25,000)

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. 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 C.F.R. 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:

- Debarred from participation in any federally assisted Award;
- Suspended from participation in any federally assisted Award;
- Proposed for debarment from participation in any federally assisted Award;
- Declared ineligible to participate in any federally assisted Award;
- Voluntarily excluded from participation in any federally assisted Award; or
- 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 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. 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.

NOTIFICATION TO FTA

(applies to awards exceeding \$25,000)

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 subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

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.

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.

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.

Recycled Products

(applies to Construction EPA-selected items \$10,000 or more annually)

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.

TERMINATION

(applies to all contracts greater than \$10,000)

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 close-out 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:

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 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. 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 close-out 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.

RESTRICTIONS ON LOBBYING

(applies to all contracts greater than \$100,000)

Conditions on use of funds.

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.

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.

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.

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.

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.

Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:

- Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or
- An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.

Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

- A Federal contract, grant, or cooperative agreement exceeding \$100,000; or

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. 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 or (b) of this section. An event that materially affects the accuracy of the information reported includes:

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

A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,

A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:

A subcontract exceeding \$100,000 at any tier under a Federal contract;

A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;

A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or,

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.

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.

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.

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.

No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart B or C.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(applies to all contracts greater than \$150,000)

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

Clean Air Act

The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.”

Federal Transit Administration Requirements for Professional Services

*Agreement of federal clauses as described above to proceed with purchase by
Manchester Transit Authority, 110 Elm St. Manchester, NH 03101*

By signing this document, I declare that I am duly authorized to make these certifications and assurances and bind the Contractor. Thus, the Contractor agrees to comply with all City, State and Federal statues, regulations, executive orders, and administrative guidance required for this Agreement. In signing this document, I declare under penalties of perjury that the forgoing certifications, assurances, and any other statements made by me on behalf of the contractor are true and correct.

Name of Corporation or Firm

Authorized Signature

| Title

Print Name

| Date

Government-wide Debarment and Suspension

49 CFR Part 29, Executive Orders 12549, 12689, and 31 U.S.C.6101
(Contracts over \$25,000)

Background and Applicability

In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published an update to 49 CFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, Debarment and Suspension, Executive Order 12689, Debarment and Suspension, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services. 49 CFR 29.220(b). This represents a change from prior practice in that the dollar threshold for application of these rules has been lowered from \$100,000 to \$25,000. These are contracts and subcontracts referred to in the regulation as "covered transactions."

Grantees, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required. 49 CFR 29.300.

Grantees, contractors, and subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

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

Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

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 recipient. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the recipient, 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 49 CFR 29, Subpart C 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.

Name of Corporation or Firm

Authorized Signature | Title

Print Name | Date

EXHIBIT 1-1

MTA
RFP 21-02
BID FORM

FOR: AUDITING SERVICES

TO: MTA
110 Elm Street
Manchester, New Hampshire 03101
(603) 623-8801
(603) 626-4512 Fax

The undersigned hereby offers to furnish one low floor cutaway buses at the prices quoted below in conformance with the terms, conditions, and specifications received from MTA which have been carefully examined and which are incorporated by reference herein. The prices quoted are exclusive of all federal, state and local taxes. The prices quoted include all costs / charges for delivery to MTA's specified location, processing costs, overhead, and any other government charges which are now or may be subsequently imposed on items to be supplied, and any other charges / costs associated in the furnishing of the items to be supplied. All prices quoted SHALL BE FIRM / FIXED.

PLEASE PROOF READ YOUR BID CAREFULLY!

| ITEM DESCRIPTION | UNIT PRICE | EXTENDED PRICE |
|------------------|------------|----------------|
| _____ | \$ _____ | \$ _____ |
| _____ | \$ _____ | \$ _____ |
| _____ | \$ _____ | \$ _____ |

COMPANY

Print Name of Auth. Rep.

Auth. Rep. Signature

EXHIBIT 1-2

**MTA
REQUESTS FOR APPROVAL OR EXCEPTION**

DATE: _____ PAGE: _____

MANUFACTURER: _____

SECTION: _____ PAGE: _____

BIDDER'S REQUEST:

RESPONSE:

APPROVED _____

DENIED _____

COMMENTS:

SIGNATURE _____ DATE _____

EXHIBIT 1-3

AMENDMENT PAGE

The undersigned acknowledges receipt of the following amendments to the Documents.

(Give Number and date of each):

Amendment No. _____ Dated _____

Amendment No. _____ Dated _____

Amendment No. _____ Dated _____

Amendment No. _____ Dated _____

Amendment No. _____ Dated _____

Failure to acknowledge receipt of all amendments may cause the bid to be considered non-responsive to the Invitation, which will require rejection of bid.

Signature

Title