

# *SOUTHERN IOWA TROLLEY*

215 E. MONTGOMERY STREET, CRESTON, IOWA 50801

Phone 641-782-6571 Fax 641-782-4096

# Request for Proposal (RFP) For Demand Response Transportation Management Software

Southern Iowa Trolley  
215 E. Montgomery St.  
Creston, IA 50801

**Closing Date/Time: 5:00 pm CDT August 6, 2021**

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## **1 - Statement of Work**

### **1.1 – Purpose**

The purpose of this Request for Proposal (RFP) is to invite prospective vendors to submit a proposal to supply Demand Response Transportation Management Software including in vehicle Mobile Data Units for Southern Iowa Trolley (SIT), in Creston, Iowa.

### **1.2 - Coverage & Participation**

The intended coverage of this RFP, and any agreement resulting from this solicitation, shall be for the use of the SIT. Southern Iowa Trolley reserves the right not to enter into any contract, to add and/or delete elements, or to change any element of the coverage and participation at any time without prior notification and without any liability or obligation of any kind or amount.

## **2 - General Information**

### **2.1 - Original RFP Document**

Southern Iowa Trolley shall retain the RFP, and all related terms and conditions, exhibits and other attachments, in original form in an archival copy. Any modification of these, in the vendor's submission, is grounds for immediate disqualification.

### **2.2 – Organization Introduction**

Southern Iowa Trolley operates a "demand/response" public transit system in a seven-county region of Southwest Iowa. With 33 employees, and a fleet of 41 public transit vehicles, we provide close to 100,000 public transit rides per year and accumulated approximately 400,000 miles. The public transit ridership is a mix of general public, work route, child transportation, medical appointments, and non-emergency medical transportation brokered through Iowa's Medicaid system.

### **2.3 – Existing Technology Environment**

Southern Iowa Trolley currently utilizes the Team on the Run app on mobile data units on U.S. Cellular data service for dispatching in Greenfield, Mt. Ayr, Leon, Osceola and Corning. Radio coverage is used in Creston, Leon and Osceola. All driver's use paper logs and trip sheets.

### **2.4 - It is expected that the technologies shall assist Southern Iowa Trolley, Inc. in a variety of demand response management functions including, but not limited to:**

1. Ride scheduling, data collection, reporting and record keeping,
2. Assisting staff to improve their performance - greater staff efficiency,
3. Greater customer convenience - rapid reservation process, customer app with payment options,
4. Assist the dispatcher in making decisions,
5. Automated report generation.

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## **3 Proposal Preparation Instructions**

### **3.1 – Vendor’s Understanding of the RFP**

The objective of this RFP is to provide offerers with sufficient information about the contract requirements to facilitate preparation of meaningful proposals. In responding to this RFP, the vendor accepts full responsibility to understand the RFP in its entirety, and in detail, including making any inquiries to SIT as necessary to gain such understanding. SIT reserves the right to disqualify any vendor who demonstrates less than such understanding. Further, SIT reserves the right to determine, at its sole discretion, whether the vendor has demonstrated such understanding. That right extends to cancellation of award if award has been made. Such disqualification and/or cancellation shall be at no fault, cost, or liability whatsoever to SIT.

### **3.2 - Scope**

This RFP contains instructions governing the content of the proposals and the format in which they are to be submitted. It requires the credentials of the offerer to be demonstrated in the areas of expertise necessary to the contract. There are mandatory requirements to be met, but should the offerer foresee the need for additional information, concise and relevant communication is encouraged.

### **3.3 - Issue Date: June 18, 2021**

### **3.4 – Inquiries**

Applicable terms and conditions herein shall govern communications and inquiries between Southern Iowa Trolley and vendors as they relate to this RFP. Inquiries, questions, and requests for clarification related to this RFP are to be directed in writing (mail, email or fax) to:

Leesa Lester / Transit Director  
215 E. Montgomery St.  
Creston, IA 50801  
(641) 782-6571 ext. 100  
(641) 782-4096 (fax)  
[trandir@southerniowatrolley.org](mailto:trandir@southerniowatrolley.org)

### **3.5 - Closing Date**

**Proposals must be received no later than 5:00 p.m. C.D.T., August 6, 2021 and addressed to:**

Southern Iowa Trolley  
Attn: Leesa Lester  
215 E. Montgomery St.  
Creston, IA 50801

**Proposals not received by the time and date stated shall not be considered.**

### **3.6 - Discussions**

Southern Iowa Trolley may enter into discussions with qualified offerers. The term "Qualified Offerers" includes only those responsible offerers who have submitted proposals initially judged by the Transit Director to be reasonably susceptible of being selected for award. Discussions shall be led by a Senior Manager of the offeror who is authorized to enter into binding negotiations. Discussions shall consist of an oral presentation by the offeror to Southern Iowa

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Trolley consisting of the Transit Director and Executive Director of the SICOG. Offerors shall be notified of the time, date, and location of the discussions. **Submission of a proposal does not guarantee an offeror the opportunity to be invited in for discussions.**

Subsequently, Southern Iowa Trolley Transit Director and/or Board of Trustees, at its discretion, may hold further discussions with one or more of the highest rated offerors and may request revised offers, and/or Best and Final Offers in accordance with State Procurement Regulations.

Southern Iowa Trolley retains the right, at its discretion, not to hold discussions with offerors and may award a contract based on technical and price proposals as submitted if, in the judgment of the Transit Director, the response to this RFP demonstrates sufficient competition so that acceptance of an initial offer without negotiation would result in a fair and reasonable price.

### **3.6 - Confidentiality, Public Record**

All offerors are hereby given notice that each proposal received shall become the exclusive property of Southern Iowa Trolley and, unless a prior written agreement to maintain all or part of a proposal confidential as a trade secret is first obtained from Southern Iowa Trolley, each offeror shall be subject to disclosure pursuant to the Federal Freedom of Information Act. Southern Iowa Trolley shall not in any way be liable or responsible for the disclosure of any proposal or portions thereof absent such agreement.

### **3.7 - Protest Procedures**

1. A bidder may submit a protest if they believe that:
  - a. The rating factors and/or evaluation criteria put them at an unjust disadvantage.
  - b. Southern Iowa Trolley erred in its conclusion that the bidder's solicitation was non-responsive or failed to follow the procedures set forth in the solicitation document.
  - c. The Bidder provided the overall best value response and Southern Iowa Trolley erred in not awarding them the contract.
2. The bidder must submit a formal written protest to Southern Iowa Trolley / Leesa Lester within 10 business days of Southern Iowa Trolley's notice of intent to award.
3. The bidder's protest should provide evidence that Southern Iowa Trolley failed to follow procedures specified in the solicitation or made identifiable mathematical errors or other calculation errors while evaluating the solicitation.
4. Within a reasonable amount of time, (7 working days after receipt of the protest) the Protest review shall be completed, and a determination shall be provided in writing to the bidder.

### **3.8 - Signatures**

Each proposal shall be signed by an officer authorized to make a binding commitment for the firm(s) making the proposal.

### **3.9 - Incurring Costs**

Southern Iowa Trolley shall not be liable for any cost incurred by any offeror in preparation of its proposal or presentation for these services.

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### 3.10 - Addenda and Supplements to RFP

If it becomes necessary to enable offerors to make an adequate interpretation of the provisions of this RFP, or if any substantive issues require change or clarification, an addendum to the RFP shall be provided on the Southern Iowa Trolley Website under this RFP Section. Offerors shall acknowledge receipt of all addenda in the transmittal letter of their technical proposal.

### 3.11 - Acceptance of Proposals

Southern Iowa Trolley intends to make an award to the offeror who best satisfies the needs of the Southern Iowa Trolley at a reasonable price and other factors considered. This request does not commit Southern Iowa Trolley to award a contract. Contents of the proposal and all the terms of this RFP may become contractual obligations if a contract ensues. Failure of the offeror to honor its obligations may result in cancellation of the award.

### 3.12 - Rejection of Proposals

Southern Iowa Trolley reserves the right to reject any or all proposals if not responsive to the RFP.

### 3.13 - Schedule of Activities

Please note that dates are subject to change based on Southern Iowa Trolley's needs.

Item	Date
RFP Issue Date	June 18, 2021
Response to Questions on S.I.T. Website	July 16, 2021
Closing Date for Receipt of Proposals	August 6, 2021
Bid Openings	August 9, 2021
Notice to award bid	August 11, 2021
Protest of award received by	August 25, 2021
Anticipated Notice to Proceed	September 15, 2021
Training	October 11, 2021
Full Implementation to Satisfaction of S.I.T.	November 1, 2021

## 4 - PROPOSAL PREPARATION AND FORMAT

### 4.1 – General

The proposals shall be reviewed for consistency with the requirements of this RFP. Failure to respond with the required information may result in the offerer being eliminated from consideration.

### 4.2- Proposal Format

1. Title Page
2. Table of Contents
3. Executive Summary (5 pages maximum)
4. Description of Organization and Qualifications

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- a. Experience on Similar Projects (Client References)
- b. Is there any pending litigation regarding any aspect of the technologies requested? If so, describe.
- c. Ownership structure.

## 5 - SCOPE OF WORK

### 5.1 – Introduction

Southern Iowa Trolley is using a set of principles to guide this procurement. These principles are seen throughout the RFP and must be addressed by the proposing offerers. These principles are as follows:

- **Proven Technology, Products, and Services** – Southern Iowa Trolley is interested in purchasing proven technologies and contracting with companies with excellent track records.
- **Support of Products** - Southern Iowa Trolley considers support of the product to be as important as the product itself. The contractor shall be held to a high standard as is specified in the RFP.
- **Performance/Functional Specifications** - This scope of services allows for flexibility in developing a proposal. The focus of the procurement is on performance specifications. The offerer is frequently requested to use their best judgment (and explain in detail their approach) in meeting the specifications of this RFP.

### 5.2 – Functional Specifications - Demand-Response Transportation Management System

	YES	NO	COMMENTS
<b>Company</b>			
Proven Software Solution			
Web based solution with Unlimited Seats			
Flexible payment options			
<b>Features</b>			
Ability to quickly book trips from pick up to drop off			
Automatic client look-up feature			
Calculates distances and displays trip flow on a digital map			
Create templates for repeat trips allowing for quick routing			
Assign runs based on drivers and vehicles			
Search for client records within seconds			
Edit client records			
Ability to track funding sources			
Track client information: Name, Address, Contact details, Gender, Birth Date, Disability, Mobility Aids			
Register new passengers quickly by capturing information about addresses, phone numbers, disability type, fares, payment options, funding source and more			

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	YES	NO	COMMENTS
<b>Reporting</b>			
Trip reports: Completed, cancelled, missed and no shows			
Productivity reports: number of vehicles in use, hours, mileage, ridership			
Operational Reports: Daily operations, NTD Standard, Manifests			
Options to create your own reports			
Ability to export reports in multiple formats: Excel, PDF, Word, RTF, HTML or CSV			
<b>Mapping</b>			
Ability to view scheduled routes			
Ability to view street names			
Ability to view passengers' pick up and drop off locations			
<b>Support</b>			
Direct access to support Monday-Friday 5am-5pm			
Ability to contact support via web and phone			

## 6 – PRICE PROPOSAL

This section shall include all costs associated with the implementation and successful operation of the automated demand response transportation management system. Address each of the following cost categories based on the detailed specifications. Address costs for independent stand-alone software as well as the cost for a web-based software system.

All costs must be valid for 90 days. Costs must be broken down for Southern Iowa Trolley.

### 6.1– Price Proposal

A Contract Price Proposal shall be submitted in the format specified below.

1. Price Proposal Form

### 6.2– Contract Period

1. 60 months
2. Option to cancel in two (2) years

### 6.3 – Payment Terms

1. Southern Iowa Trolley shall be invoiced monthly.
2. If Southern Iowa Trolley is satisfied with the software program, Southern Iowa Trolley may at any time, request the vendor invoice Southern Iowa Trolley for the remaining months of

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the contract.

## 7 – Price Proposal Submittal Form

### DEMAND RESPONSE TRANSPORTATION MANAGEMENT SYSTEM

**Directions:** Please complete the "Price Proposal Submittal Form". Along with the Required Pricing Form, please submit supporting documentation where needed. If you need additional space, please attach additional pages. Southern Iowa Trolley reserves the right to request additional cost information for clarification purposes during the evaluation period.

TASK	COST
Software License Fee	
Mapping (name supplier/cost including licensing agreement)	
Installation	
Training	
Licensing	
Additional Reports	
Annual Maintenance Fee	
Monthly Cost	
Interfacing licensing, engineering support and implementation	
Other items	
Sales Tax (if necessary)	
<b>Total</b>	

(Failure to complete this form and to submit it with your offer may render this offer non-responsive).

## 8– PROPOSAL EVALUATION FACTORS

**The Proposals shall be carefully evaluated for conformance with the requirements of this RFP. Selection of a firm shall be based upon both technical factors and price, with equal weight given to both.**

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## **9- THIRD PARY CONTRACT PROVISIONS**

**9.1 With your bid submission, you are certifying that you meet the following third party contract provisions.**

### **Clauses and Certifications**

#### **Energy Conservation**

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000) Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

#### **Clean Water**

All Contracts and Subcontracts over \$100,000 Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

#### **Lobbying**

- Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000, Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

#### **Access to Records and Reports**

Applicability - As shown below. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000) the following access to records requirements apply to this Contract:

- Where the purchaser is not a State but a local government and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers, and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
- Where the purchaser is a State and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital

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project, defined at 49 USC 5302(a) which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

- Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
- Where a purchaser which is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- Contractor shall maintain all books, records, accounts, and reports required under this contract for a period of 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 contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i) (11). FTA does not require the inclusion of these requirements in subcontracts.

## **Federal Changes**

- All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000) Contractor shall comply with all applicable FTA regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract.  
Contractor's failure to comply shall constitute a material breach of the contract.

## **Clean Air**

- Contractor shall comply with all applicable standards, orders, or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.
- Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

## **No Government Obligation to Third Parties**

Applicability - All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

- The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- Contractor agrees to include the above clause in each subcontract financed in whole or in part with

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FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## **Program Fraud and False or Fraudulent Statements or Related Acts**

Applicability - All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

- Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, 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 FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.
- If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.
- Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

## **Termination**

Applicability - All Contracts over \$10,000

Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

- Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.
- Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient 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 the recipient from also pursuing all available remedies against contractor and its sureties

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for said breach or default.

- Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient 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 contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall 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 contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- Termination for Default (Transportation Services) If 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 contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall 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 contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect, and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient 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. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work. Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:
  1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
  2. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses. If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if

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termination had been issued for the recipient's convenience.

- Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. Recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice or termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, 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 recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

## **Government Wide Debarment and Suspension (Non-Procurement)**

Applicability - Contracts over \$25,000

- 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 contractors, 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.

## **Contracts Involving Federal Privacy Act Requirements**

- When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$10,000 or less, except for construction

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contracts over \$2,000). The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

1. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor, or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
2. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

## **Civil Rights Requirements**

All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

- Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 USC 2000d, Sec. 303 of the Age Discrimination Act (1975), as amended, 42 USC 6102, Sec. 202 of the Americans with Disabilities Act (1990), 42 USC 12132, and 49 USC 5332, contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. Contractor shall also comply with applicable Federal implementing regulations and other requirements FTA may issue.
- Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
  1. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 USC 2000e, and 49 USC 5332, contractor shall comply with all applicable equal employment opportunity requirements of USDOL, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, USDOL," 41 CFR 60 et seq., (implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC 2000e), and any applicable Federal statutes, executive orders, regulations, and policies that may in the future affect construction activities undertaken in the course of the project. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. 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. In addition, contractor shall comply with any implementing requirements FTA may issue.
  2. Age - In accordance with Sec. 4 of the Age Discrimination in Employment Act (1967), as amended, 29 USC 623 and 49 USC 5332, contractor shall refrain from discrimination against present and prospective employees for reason of age. Contractor shall also comply with any implementing requirements FTA may issue.
  3. Disabilities - In accordance with Sec. 102 of the Americans with Disabilities Act (ADA), as amended, 42 USC 12112, contractor shall comply with the requirements of US Equal Employment Opportunity Commission (EEOC), Regulations to Implement Equal Employment Provisions of the Americans with Disabilities Act, 29 CFR 1630, pertaining to employment of persons with disabilities. Contractor shall also comply with any implementing requirements FTA may issue.
- Contractor shall include these requirements in each subcontract financed in whole or in part with FTA assistance, modified only if necessary to identify the affected parties.

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## **Disadvantaged Business Enterprise**

Contracts over \$10,000 awarded on the basis of a bid or proposal offering to use DBEs

- This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.
- The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. 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 municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.
- If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- 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 from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.
- The contractor must promptly notify the recipient 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 recipient.

## **Incorporation of Federal Transit Administration (FTA) Terms**

All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

- The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

## **Full and Open Competition**

- In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

## **Prohibition Against Exclusionary or Discriminatory Specifications**

- Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

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## **Conformance with ITS National Architecture**

- Contractor shall conform, to the extent applicable to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

## **Access Requirements for Persons with Disabilities**

- Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

## **Notification of Federal Participation**

- To the extent required by law, in the announcement of any third-party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third-party contract.

## **Interest of Members or Delegates to Congress**

- No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

## **Ineligible Contractors and Subcontractors**

- Any name appearing upon the Comptroller General's list of ineligible contractors for federally assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate, or suspend this contract.

## **Other Contract Requirements**

- To the extent not inconsistent with foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

## **Compliance with Federal Regulations**

- Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT - required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures, and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

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## **Access to Services for Persons with Limited English Proficiency**

- To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

## **Environmental Justice**

- The Recipient agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

## **Environmental Protections**

- Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

## **Geographic Information and Related Spatial Data**

- Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

## **Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Only**

- Non-Federal entities that expend \$500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, Audits of States, Local Governments, and Non-Profit Organizations. Non-Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non-Federal entities that expend less than \$500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in '3052.215(a), but records must be available for review or audit by appropriate officials of the Federal and State agencies.

## **Catalog of Federal Domestic Assistance (CFDA) Identification Number**

- The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

## **CFDA number for the Federal Transportation Administration**

- A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SFSAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and

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as the first characters in Item 9d of Part III on the SF-SAC.

## **Standards of conduct**

- Transit Systems must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity. If the recipient has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the recipient must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the recipient is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

## **Unnecessary or duplicative items**

- The transit system's procedures must avoid the acquisition of unnecessary or duplicative items.

## **Procurement history**

- The transit system must maintain records sufficient to detail the history of the procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

## **Time and Material contracts**

- The transit system may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Since this contract type generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the recipient awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

## **Profit:**

- Transit systems must negotiate profit as a separate element of the price for each contract in which there is no price competition as in all cases where a cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

## **Estimated costs:**

- Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred, or cost estimates included in negotiated prices would be allowable

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for the transit system under 2 CFR Part 200 Subpart E—Cost Principles. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

## Federal Certifications

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 sub-contracts, subgrants 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 (as amended by the Lobbying Disclosure Act of 1995). 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. The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.*

Name of Bidder/Company Name \_\_\_\_\_

Type or print name \_\_\_\_\_

Signature of authorized representative \_\_\_\_\_ Date \_\_/\_\_/\_\_

Signature of notary and SEAL \_\_\_\_\_

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## **GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) 49 CFR Part 29, Executive Orders 12549, 12689, and 31 U.S.C. 6101 (Contracts over \$10,000)**

### **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.

Contractor \_\_\_\_\_  
Signature of Authorized Official \_\_\_\_\_ Date / /  
Name and Title of Contractor's Authorized Official

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