

Request for Proposal

CADS (Computer Aided Dispatching and Scheduling)
Software Solution

Cadillac/Wexford Transit Authority
Cadillac, Michigan
(Acting as the lead agency for a Joint Procurement)



wexexpress
Cadillac/Wexford Transit Authority

Request for Proposal (RFP)

RFP No. 2022-1

Direct Questions To: Mr. Aaron I. Stahl, CWTA Operations Manager, at aaron@wexexpress.us by December 12, 2022. Questions and answers will be posted at <https://www.wexexpress.us/solicitations>

Date Issued: November 21, 2022

Date Due: January 6, 2023

Proposer Name: _____

Amount of Proposal: \$ _____

Amount of monthly or
yearly sub./fees: \$ _____

Submit To: Cadillac/Wexford Transit Authority
951 Casa Road
Cadillac, MI 49601

PROPOSER READ AND COMPLETE

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

Signature

Date

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

SECTION TWO

BACKGROUND INFORMATION

The Cadillac/Wexford Transit Authority (hereinafter referred to as the “CWTA”) will be acting as the lead agency for a joint procurement for the following agencies:

- Cadillac/Wexford Transit Authority (aka WexExpress)
- Huron Transit Corporation (aka Thumb Area Transit)
- Jackson Area Transportation Authority (JATA)
- Blue Water Transit Commission
- Allegan County Transportation
- Macatawa Area Express (aka MAX)
- Harbor Transit

These systems are looking for a solution to decrease call and text messaging volumes, help dispatchers efficiently route and schedule calls, allow customers to self-serve, and provide vehicle location services as our communities expect. While our dispatchers are skilled and knowledgeable, this job becomes more complex as customer demand increases. We are looking to leverage new technologies to help create effective schedules and increase communication effectiveness, all while reducing human error.

Below please find a brief description of each agency:

Cadillac/Wexford Transit Authority (CWTA)- Lead Agency

The Cadillac/Wexford Transit Authority provides door-to-door demand-response public transportation services, non-emergency medical transportation, contract transportation, and volunteer transportation services to the businesses and residents of Wexford County, Michigan. The CWTA also offers regional transportation for residents traveling to and from Traverse City and Tustin, Michigan. Providing 150,000 rides annually, the CWTA services students, adults, seniors, and those with disabilities with thirty (30) lift-equipped vehicles. Around forty percent (40%) of these rides are scheduled, or pre-booked calls, with the remaining sixty percent (60%) of calls being booked the same day.

Huron Transit Corporation

Huron Transit Corporation DBA Thumb Area transit provides door-to-door demand-response public transportation for all residents and businesses of Huron County, Michigan. TAT provides 350,000 rides annually and covers an area of 836 square miles. Services also include Non Emergency Medical Transportation (NEMT), and Package Delivery. TAT’s fleet consists of 56 vehicles (48 lift-equipped) and services students, adults, seniors, and individuals with disabilities. 77% of the rides are pre-booked, and 23% booked the same day.

Jackson Area Transit Authority

The Jackson Area Transportation Authority (JATA) is a multi-service system providing county-wide transit services to all residents within Jackson County, Michigan. Services are county-wide, and available to all residents of Jackson and Jackson County, depending on destination. Services include curbside-to-curb, fixed route, contract and non-emergency medical transportation. JATA provides approximately 590,000 rides per year.

Blue Water Area Transit Commission

The Blue Water Area Transit system provides regularly-scheduled bus service six days a week to the City of Port Huron and Fort Gratiot Township, as well as a dial-a-ride service in Marysville, Fort Gratiot, Burtchville, and Port Huron Townships. The public transit system is operated by the Blue Water Area Transportation Commission, an independent public agency, with support from state, federal, and local governments. In 2016, Blue Water Area Transit averaged over 100,000 trips monthly, with 1,246,295 for the year — and over 29,000,000 since 1976. The 85 buses cover nine regular routes and multiple handicap, dial-a-ride, and agency partnerships.

Allegan County Transportation

The County of Allegan established a reservation public transportation system in 2000 and has provided the service since. This reservation type transportation service is operated within the boundaries of Allegan County, providing barrier-free transportation services to approximately 120,100 residents in an 825-square mile radius. ACT is funded through a combination of fares, contracted services, and state and federal funds. Since the beginning of 2022, ACT has provided door-to-door transportation available for all residents in Allegan County, with expanded hours of operation (weekdays until 7 p.m. and Saturdays until 3 p.m.)

Macatawa Area Express (MAX)

The Macatawa Area Express (MAX) is a small urban transit system that has operated fixed bus routes and demand response service since 2000. The Max provides approximately 412,000 rides annually with a 31 vehicle fleet. MAX provides transit service to the City of Holland, Holland Charter Township, the City of Zeeland, Zeeland Charter Township, and most recently to Park Township. MAX operates a network of eight fixed routes and launched a connector route in 2018. Service is provided weekdays from 6:00 a.m. to 7:00 p.m. Saturday service is operated from 8:00 a.m. to 7:00 p.m. Evening reserved-ride service operates from 7:00 p.m. to 12:15 a.m.

Harbor Transit

Harbor Transit Multi-Modal Transportation System serves a 55-Square mile area covering the Tri-Cities area of Grand Haven Township, City of Grand Haven, City of Ferrysburg, Spring Lake Village, and Spring Lake Township in North West Ottawa County. Harbor Transit has a fleet of 29 accessible buses and transports more than 250,00 riders a year. Harbor Transit provides on-

demand, curb to curb transit service daily. Harbor Transit provides affordable convenient transportation for thousands of passengers going to work, school, medical appointments, and other important destinations.

SCOPE OF WORK

Project Objectives

The CWTA and the other transits listed in the joint procurement currently use Routematch software and seek to upgrade and/or replace its dispatch and operations software (CADS). This project will be managed by the Cadillac/Wexford Transit Authority. Once awarded, each transit listed in the joint procurement may enter into a contract individually with the chosen vendor.

Technical Requirements

Refer to the evaluation section; these are the criteria we will use in evaluating proposals. CWTA reserves the right to award to the responsive, responsible vendor(s) whose proposal represents the Best Value to the CWTA. The contract(s) will be a firm, fixed-price contract.

Your proposal should include the network requirements needed for the proposed dispatch program to run efficiently and effectively. You should note the complete server, workstation, network, and ISP requirements in your response.

Additional Communications Equipment Requirements

- The vendor must notify the agency if additional equipment is required to operate any part of the dispatch system and must be included in the itemized costs submitted in this RFP. Including equipment such as tablets/mobile data terminals (MDT) and vehicle mounting equipment.

SPECIFICATIONS

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

1. The application must be able to receive and/or record the following customer data:
 1. Full Name, address, phone number, township, city
 2. Passenger type (youth, student, adult, senior, disabled, senior disabled)
 3. Passenger mobility needs (uses the lift, walker, scooter, or other mobility devices)
 4. Emergency contact information

5. Notes recorded to better serve or communicate with the customer
6. Service eligibility of the customer
2. Application must have an easy-to-navigate portal/interface allowing dispatchers to monitor vehicles, availability of GPS coordinates, manage customer accounts, view scheduled trip status, and view overall system health such as OTP
3. Application must be hosted, browser-based and accessible from browsers found on common, publicly available desktops, tablets, and/or other mobile devices
4. Application must be able to accommodate multiple service types such as demand-response service, paratransit, Microtransit, Non-Emergency Medical (NEMT), and volunteer driver transportation service, all within the same application instance
5. Ability for the system to share vehicles with multiple service types if programmed to do so
6. The ability for multiple dispatch/scheduling/operations staff to access and work in the application simultaneously
7. Application is able to send all ridership information (customer name, pickup address, dropoff address, time, trip notes) to a driver application available to drivers in the vehicle
8. Data must be transmitted to and from the vehicle and the channels must be adequate to allow the transmission of data in real-time
9. Application has client and service eligibility management features
10. Offers automated, real-time (same day), and day before continuous scheduling optimization
11. Ability to manually schedule trips to vehicles, runs, or ride plans, if necessary, in part or the entire shift duration (i.e. contract service)
12. Allows for easy modification and/or changes to items such as vehicle/run/ride plan schedules, customer trip schedules (including re-assignment), and driver schedules and availability
13. AVL must be fully integrated with the dispatch system and must provide real-time information for all assets using graphical mapping of vehicles, routes, stop addresses, etc., along with showing relative health in terms of OTP
14. Vendor is responsible for supplying up to date maps at least once yearly, or other reasonable interval of time, through the mapping provider
15. On-demand, pre-scheduled, or subscription trips can be scheduled through the call center (dispatch), mobile app, or web portal and scheduling availability and requirements can be configured per-service
16. Rides scheduled for a NEMT or other limited eligibility service allow for dispatch to approve the trip eligibility before the trip is scheduled
17. Trips can be scheduled to certain vehicles/runs for contract service based on a scheduled, re-occurring trip and/or specific customer basis
18. Application allows for passenger suspensions due to excessive no-shows or other reasons deemed appropriate by the agency, and allows for call center (dispatch) staff to easily see customer suspension status
19. Ability to revise geo-location information to pinpoint exact pickup or dropoff locations for drivers

20. Ability to modify or augment map data to include the ability to block the use of streets, or provide other changes that would help to direct drivers and provide more accurate schedules
21. Application must include a drivers app that includes the following minimum requirements:
 1. Must be able to be installed on the latest stable, publicly available version of Android and/or iOS devices
 2. Receives real-time communication and updates (including trip changes and updates) from dispatch and any customer interactions with the application
 3. Must be designed in a way to provide minimal distractions to the driver while the driver is operating the vehicle
 4. Allows for two-way communication between the operator and dispatch
 5. Provides communication to the passenger to know the location of the vehicle, and/or provides customers with notifications when the vehicle arrives or is approaching a pickup
 6. Has integrated mapping and turn by turn navigation that is easy for the operator to access
 7. Vendor is responsible for supplying up to date maps at least once yearly, or other reasonable interval of time, through the mapping provider
 8. Must be able to record the pick-up, boarding, and departure of passengers, flag a no-show, input fare data, record drop off time and pick up time, record odometer readings at each stop
 9. Shows the operator the customer fare due, and will notify the driver if the fare has already been paid
22. Application must include a white-labeled customer app that includes the following minimum requirements:
 1. Must be able to be installed on the latest stable, publicly available version of Android and iOS devices
 2. Provides day-of, real-time trip monitoring to the customer regardless if the trip was scheduled through the app, a web portal, or a dispatching module/interface
 3. The ability for the agency to post travel notices or announcements on the app for customers to see (i.e., service changes or delays, etc.)
 4. Customers can schedule on-demand, pre-scheduled, or subscription trips through the app, and allows for the trip to be paid through the app, or when they board the agency vehicle
 5. Must include a ticketing and payment system to encourage customers to pay through the app
 6. Provides customers with trip information and notifications such as vehicles location, ETA and/or notifications on arrival
23. 24/7/365 technical support with an initial response time of no more than one (1) hour
24. Dispatchers can see and report on fares collected and method of payments
25. Ability to easily run reports

26. Report data should be able to be exported into a format compatible with Microsoft Excel
27. Provide standard report data such as trips performed, OTP, miles, etc.
28. Any reports that need to be created in order to comply with reporting requirements from the State of Michigan, FTA, or local governing board or municipality, shall be created for the agency at no extra charge
29. Application must include a web portal to increase access for customers who do not have access to mobile apps. The web portal shall have the following minimum requirements:
 1. Allows customers to create and manage customer accounts, including fare payments
 2. Allows customers to schedule initial and return trips
 3. Accepts passenger information and needs such as using a wheelchair or walker, carrying portable oxygen, is visually impaired, or needs a personal care attendant
 4. Allows customers to confirm trip details before submission
 5. Allows customers to be notified of approvals, denials, or modifications
 6. Organizations such as hospitals, AFC homes, schools, hotels, parents, and other businesses should be able to use the web portal scheduling to schedule rides for their customers or guests
30. Provides funding/billing management allowing the agency to bill per person, per trip, per mile, per hour, etc.
31. Any reports that need to be created to be used for the specific purpose of billing customers shall be created for the agency at no extra charge
32. Ability to run ad-hoc reports

Additional Specs for Fixed Route Service

1. Provides fixed route management and dispatching services
2. Ability to view fixed route and paratransit services in one application, and application instance
3. The rider app shows notifications, including ETA data
4. Includes a ticketing and payment system for both the Paratransit and Fixed Route services

OFFER PREPARATION AND SUBMITTAL

Questions on the RFP must be submitted to **Aaron Stahl at aaron@wexexpress.us** and will be answered in writing. Questions, answers, and any addendums to the RFP will be posted on the CWTA's website at www.wexexpress.us and distributed to every firm that sent an RFP and to every firm that has submitted a proposal or question. Verbal comments are not part of this solicitation.

Proposal Content

The following needs to be included with your proposal:

Statement of Proposal

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

Organization Structure

Indicate through the use of organization diagrams and/or narrative statements, the proposed staffing, functioning, and interrelationships with the CWTA during the production of the design package.

Prior Experience

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

Staff Description

Identify principal staff personnel by name and qualification as well as any key staff personnel from work that is to be performed by subcontract.

Authorized Negotiators

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

Detailed List of Itemized Costs

A complete list of itemized costs related to the project/solution is required. Itemized costs should include the sum of the first three years of fees. Information requested in this section is required in order to evaluate the reasonableness and quality of the proposal and will be used for evaluation purposes within the transit agency only.

Marketing Materials – optional

Additional information, such as marketing materials, may be included in an appendix if desired, but should not be considered a replacement for answering any of the questions asked in this proposal.

Business Organization

State the full name and address of your organization and, if applicable, the parent or subsidiary entity that will perform or assist in performance of the work contained in your proposal or will provide any assistance. Indicate whether you operate as an individual, partnership or corporation; if as a corporation, include the state in which you are incorporated. All respondents must indicate their organization's federal identification number. Also include a

certified copy of your latest annual report, including balance sheet and income statement, OR a letter certifying you are in good financial standings.

Minority owned and female owned firms are encouraged to respond to the solicitation for proposals.

Proposal Submittal

All organizations submitting proposals must **e-mail one (1) copy** of your proposal to aaron@wexexpress.us and **mail ten (10) copies** to Cadillac/Wexford Transit Authority, ATTN: Aaron I. Stahl, 951 Casa Road, Cadillac, MI 49601. THE RFP COVER PAGE SENT WITH THIS RFP MUST BE SIGNED IN INK BY AN OFFICIAL OF THE SUBMITTING ORGANIZATION authorized to bind the proposer to the provision of the RFP and the quotation. THE COMPLETED RFP COVER PAGE MUST BE RETURNED WITH THE PROPOSAL.

Emailed and mailed **proposals must be received by December 30, 2022** at the Cadillac/Wexford Transit Authority located at 951 Casa Road, Cadillac, MI, 49601

If a proposing company has more than one solution, such as a traditional/legacy model vs Software as a Service, they may submit more than one proposal. However, each proposal will be evaluated and scored independently of the other.

- Traditional/legacy model: Purchase the system upfront and pay annual maintenance/service fees
- Software as a Service: Paid monthly on a per-bus basis

This project is funded by the Federal Transit Administration (FTA) and the Michigan Department of Transportation (MDOT) grants. It is subject to federal and state guidelines. The federal requirements for this project are Materials And Supplies More Than \$150,000 and are attached. The clauses must be signed and included with your submission.

LATE SUBMISSIONS

Offerors are responsible for submitting offers so as to reach the CWTA designated in the solicitation on time. The entire proposal must be received, not merely a portion of it. Moreover, no acts of God or similar factors will excuse lateness.

MODIFICATIONS AND WITHDRAWLS OF OFFERS

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

PROPOSAL EVALUATION FOR AWARD

It is the intent of CWTA to award two separate vendors through this one RFP.

The proposals will be evaluated using the selection criteria below. All proposals shall be subject to an evaluation by the Selection Committee, assisted by other technical personnel as deemed appropriate for the purpose of selecting the proposer with whom a contract will be executed. The Selection Committee will consist of the CWTA Agency Director, CWTA Operations Manager and one designee from each transit listed in the joint procurement. Representatives from the firm(s) in a competitive range may be invited to meet in person or by video conference with the Selection Committee before the final selections are made. Original scoring of the non-price criteria may be adjusted based on the results of the presentations. The CWTA and the transits listed in the joint procurement reserve the right to reject any and all proposals in whole or part for sound, documentable, business reasons. The CWTA and the transits listed in the joint procurement also reserve the right to award to other than the lowest price proposal. The selection criteria are listed in order of importance. Price is less important than the other evaluation criteria as a whole. The criteria is as follows:

Method of Approach: This refers to the technical soundness of the proposer's stated approach to the project, the comprehensiveness of the proposed approach, and the techniques to be used. The proposal should describe the approach and techniques used to achieve each item in the scope of work and technical requirements listed throughout the RFP.

Prior Experience: Evaluation will be based on references, samples of work, and explanations of similar services offered to clients that yielded results and demonstrations of measurable impact of the proposer's work.

Understanding the Context and Purpose: A determination will be made of the consultant's understanding of the project purpose, the regional context, and aspirations for the CWTA. Evaluation will be based on the response provided in the proposal.

Capability and qualifications: The ability of a prospective proposer will be evaluated under the terms of the RFP, relative to the qualifications of personnel assigned to the project needed to successfully complete the project. The proposer's professional and project staff that work on the project must be the same staff that is identified in the proposal.

This project will be on a tight timeline and the entire joint procurement project must be completed no later than **December 29, 2023**, therefore the proposer must also show capability by attesting it can complete the job on schedule.

Ongoing Annual Costs: A determination will be made from the proposal as to whether the CWTA is able to afford and maintain any ongoing annual costs, including annual software license fees and other service fees that are required in order to maintain and support the complete system as proposed, as well as the monthly or yearly fee schedule that is required of the Agency. Evaluation will be on the sum of the first three years of fees.

Prices for ongoing annual costs will be evaluated based on the following formula:

$$(\text{lowest price/price of bid being evaluated})(\text{assigned points}) = \text{number of points received}$$

Price: The evaluated price will include the options listed in section three. Prices will be evaluated based on the following formula:

$$(\text{lowest price/price of bid being evaluated})(\text{assigned points}) = \text{number of points received}$$

The agencies reserve the right to waive any informalities or minor defects. The CWTA reserves the right to use whatever reasonable and prudent evaluation techniques it deems appropriate.

NOTICE TO PROCEED

The selected vendor(s) will contract with the agency and must have a third party subcontract approved by MDOT. The awarded subcontract serves as the vendor's Notice to Proceed.

DURATION OF CONTRACT

CWTA, acting as the lead agency, is anticipating a start date no later than May 15, 2023, with a completion date no later than August 15, 2023. All contracts associated with this joint procurement must be fulfilled by December 29, 2023.

TERMS OF PAYMENT

The prime contractor(s) will complete the project AND submit an invoice **no later than January 5, 2024** in order to guarantee payment. No payment will be submitted to the State of Michigan for reimbursement until the transit verifies that the project meets the bid specifications. Upon acceptance the transit will submit a request to the State of Michigan, which will take a minimum of forty-five (45) days to be processed. No payment will be made by the transit until the reimbursement check is received by the transit from the State of Michigan. All invoices shall be **itemized**.

PROPOSAL PROTESTS

Contractors wishing to protest procurement decisions or processes must submit the protest in writing to the Executive Director, Carrie Thompson, at the CWTA, 951 Casa Road, Cadillac, MI 49601. Protests about solicitation specifications or processes must be received 10 business days before the solicitation due date. Protests received after the due date, but before award must be received before 5 business days after the due date. Post award protests must be received by the CWTA no later than 5 business days after the award decision.

The CWTA Executive Director or her designee will review the written protest and provide a written decision to the protestor within 10 business days of receiving the protest.

The protestor can appeal the CWTA Executive Director's or her designee's decision to CWTA board. That appeal must be filed with the CWTA Executive Director or her designee within 5 business days of the Executive Director's or her designee's decision. The CWTA board's decision on the appeal is final.

This "disputes" clause does not preclude consideration of questions of law in connection with decisions provided for above; provided that nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

Proposal protests shall contain:

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

SECTION THREE

CONTRACTOR FURNISHINGS

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

INDEMNITY PROVISIONS

The contractor shall indemnify, defend and hold harmless the CWTA and other transits listed on this RFP Joint Procurement. Including their officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages, and claims (including taxes), and all related costs and expenses (including reasonable attorney's fees and disbursements and costs of investigation, litigation, settlement, judgments, interest, and penalties), arising from or in connection with any of the following:

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

OPTIONS

- Option For Increased Quantities

The CWTA may increase the quantity of supplies (i.e., tablets, licensing, equipment) at the unit price quoted on in the proposal for up to 10 units per transit. The CWTA may exercise the option by giving written notice to the Contractor within twelve (12) months of contract award. Delivery of the added items shall continue at the same rate as the like items called for under the contract, unless the parties otherwise agree.

- Option to Extend Services

The CWTA may require continued performance of any services within the limits and at the rates specified in the contract. The option to extend services may be exercised more than once, but the total extension of performance hereunder shall not exceed six (6) months. The CWTA may exercise the option by giving written notice to the Contractor by December 29, 2023.

SECTION FOUR

TERMINATION FOR DEFAULT AND CONVENIENCE

The CWTA and other transit listed in this joint procurement may at any time and for any reason terminate Contractor's services and work at their convenience. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities, and supplies in connection with the performance of this Agreement.

Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Contractor as are permitted by the prime contract and approved by the transits listed on this joint procurement; (3) plus ten percent (10%) of the cost of the work for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Contractor prior to the date of the termination of this Agreement. Contractor shall not be entitled to any claim or claim of lien against the CWTA for any additional compensation or damages in the event of such termination and payment.

INSPECTION

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

The agency reserves the right to waive any informalities or minor defects.

ASSIGNMENT

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

IMPACT OF FEDERAL, STATE, AND LOCAL TAXES

The CWTA and the other transits listed in this joint procurement are exempt from Federal, State, and local taxes. They will not be responsible for any taxes levied on the respondent as a result of the contract resulting from this RFP.

DISPUTES

The parties shall attempt to resolve any dispute arising out of or relating to this contract through negotiations between senior executives of the parties, who have authority to settle the same.

If the matter is not resolved by negotiation within 30 days of receipt of a written 'invitation to negotiate', the parties will attempt to resolve the dispute in good faith through an agreed Alternative Dispute Resolution (ADR) procedure.

GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan, except for matters arising from or concerning indemnification, which shall be governed by and construed in accordance with the laws of the State of Michigan.

EXAMINATION OF RECORDS

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

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

FEDERAL CLAUSES

This project is funded by the Federal Transit Administration (FTA) and the Michigan Department of Transportation (MDOT) grants. It is subject to federal and state guidelines. The federal requirements for this project are Materials And Supplies More Than \$150,000 and are attached. The clauses must be signed and included with your submission.

Attachment A: Materials and Supplies more than \$150,000
Michigan Department of Transportation 3165 (11/19)

MATERIALS AND SUPPLIES MORE THAN \$150,000

LOBBYING

Applicability – construction/architectural and engineering/acquisition of rolling stock/professional service contract/operational service contract/turnkey contracts over \$150,000. 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 \$150,000 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.

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.

CONTRACTOR / COMPANY NAME

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL:

TYPE OR PRINT NAME	TITLE
SIGNATURE	DATE

BUY AMERICA CERTIFICATION (STEEL AND MANUFACTURED PRODUCTS)

Applicability – construction contracts and acquisition of goods or rolling stock (valued at more than \$150,000) Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, as amended by MAP-21 stating that Federal funds may not be obligated unless steel, iron and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than \$150,000) made with capital, operating or planning funds. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Certificate of Compliance with Buy America Requirements.

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

CONTRACTOR / COMPANY NAME

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL:

TYPE OR PRINT NAME	TITLE
SIGNATURE	DATE

Only sign either Certificate of **Compliance** or Certificate of **Non-Compliance**.

Certificate of **Non-Compliance** with Buy America Steel or Manufactured Products Requirements The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. 661.7.

CONTRACTOR / COMPANY NAME

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL:

TYPE OR PRINT NAME	TITLE	
SIGNATURE	DATE	

GOVERNMENT WIDE DEBARMENT AND SUSPENSION (NON PROCUREMENT)

Applicability – all contracts more than \$25,000.

The Recipient agrees to the following:

- (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," <https://www.sam.gov,proxy1.semalt.design> if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <https://www.sam.gov,proxy1.semalt.design> if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200.
- (2) If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel.

CONTRACTOR / COMPANY NAME

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL:

TYPE OR PRINT NAME	TITLE	
SIGNATURE	DATE	

BREACHES AND DISPUTE RESOLUTION

Applicability – all contracts more than \$150,000.

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729. Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage. Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State. Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

CLEAN AIR

Applicability – all contracts more than \$150,000.

1. 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.
2. Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

CLEAN WATER

Applicability – all contracts and Subcontracts more than \$150,000. 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.

FLY AMERICA REQUIREMENTS

Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and

shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

CARGO PREFERENCE

Applicability – all contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall:

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

ENERGY CONSERVATION

Applicability – 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.

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:

1. 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.
2. Where the purchaser is a State and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 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 project, defined at 49 USC 5302(a) (1), 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 \$150,000.
3. 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.

4. 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.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. 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

Applicability – 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.

RECYCLED PRODUCTS

Applicability – all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds. The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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

1. 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.
2. Contractor agrees to include the above clause in each subcontract financed in whole or in part with 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).

1. 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.

2. 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.
3. 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 more than \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$150,000.

- a. 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.
- b. 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.
- c. 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 for said breach or default.
- d. 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.
- e. 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.
- f. 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 or if the 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 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.

- g. 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.
- h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure 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:
 - I. 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
 - II. 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 termination had been issued for the recipient's convenience.
- i. 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. The 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:
 - I. Immediately discontinue all services affected (unless the notice directs otherwise), and
 - II. 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.

- j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of 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 closeout costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a notice of termination for default, the 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.

CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

Applicability – 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 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

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

The following requirements apply to the underlying contract: The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

- a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute) FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, (g) Age, or (h) Gender identity and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines

otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program,

- b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,
- c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer". Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,
- d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: (1) Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 implement a DBE program approved by FTA, and 3 establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that

it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation,

- e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,
- f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, 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, which implements the Age Discrimination Act of 1975, and Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,
- g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) 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 individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of "employer," (c) 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 individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with

Disabilities,” 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194, and (j) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance,

- h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2,
- i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, “Improving Access to Services for Persons with Limited English Proficiency,” August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, “DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (LEP) Persons,” 70 Fed. Reg. 74087, December 14, 2005,
- j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.
- k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

DISADVANTAGED BUSINESS ENTERPRISE

Applicability – contracts over \$10,000 awarded on the basis of a bid or proposal offering to use DBEs:

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, and 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.
- b. The contractor shall not discriminate on the basis of race, color, religion, 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)).
- c. 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.
- d. 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.
- e. 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.
- f. 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.

PROMPT PAYMENT

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

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

Applicability – 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.