



inspection is scheduled for 10:00 a.m. Thursday, April 11, 2013 beginning at Greenbelt Yard for railcars 5056 and 5057 and continuing to New Carrolton Yard for railcar 6050.

- B. Article 16, proposal Format Instructions/Requirements, paragraph b is amended to delete references to spare parts list and other estimates. Only the price schedule sheets are to be included in Volume I.
- II. The Special Provisions Articles are amended as follows:
- A. Article 1, Period of Performance, is amended to 730 calendar days after award.
  - B. Article 2, Delivery Schedule, is amended for a. 670 calendar days for delivery and b. 700 calendar days for acceptance and commissioning.
  - C. Article 23, Special Delivery Instructions, is amended to add the delivery all excess extrusions.
  - D. Article 28, Liquidated Damages is amended to properly identify the repaired railcars as the subject for liquidated damages.
  - E. Article 39, Progress Schedules is amended to provide for approval of the progress schedule. Also, a new paragraph is added regarding early completion
- III. The Price Schedule Sheet is amended to add line items for the extrusion material.
- IV. The Note to Offerors is amended to add new note no. 8 which clarifies pricing for extrusions and delivery of excess.
- IV. Questions and Answers No. 1 attached.

End Amendment No. 02

**PRICE SCHEDULE SHEET**

**Repair of Railcars 5056 & 5057**

No	Description	Unit	Qty	Price	Amount	
1	Bonds and Insurance	LS	1	\$ _____	\$ _____	
2	Transport of Railcars to Repair Facility	EA	2	\$ _____	\$ _____	
3	Railcar Survey, Engineering Analysis and Report	LS	1	\$ _____	\$ _____	
4	Structural Repairs 5056	LS	1	\$ _____	\$ _____	
4b	Extrusion Material	LS	1	\$ _____	\$ _____	AM 02
5	Structural Repairs 5057	LS	1	\$ _____	\$ _____	
5b	Extrusion Material	LS	1	\$ _____	\$ _____	AM 02
6	Electrical Harness, Furnish and Install (5056/5057)	EA	2	\$ _____	\$ _____	
7	Remaining Repairs & Re-Assembly (5056/5057)	LS	1	\$ _____	\$ _____	
8	Jack Test	EA	2	\$ _____	\$ _____	
9	Factory Testing	EA	2	\$ _____	\$ _____	
10	Delivery to the Authority	EA	2	_____	_____	
11	On-Site Testing, Commissioning, Acceptance	EA	2	\$ _____	\$ _____	
12	Railcar Documentation	LS	1	\$ <u>25,000.00</u>	\$ <u>25,000.00</u>	
<b>TOTAL Repair of Railcars 5056 &amp; 5057</b>					\$ _____	

**Repair of Railcar 6050**

No	Description	Unit	Qty	Price	Amount
13	Bonds and Insurance	LS	1	\$ _____	\$ _____
14	Transport of Railcar to Repair Facility	EA	1	\$ _____	\$ _____
15	Railcar Survey, Engineering Analysis and Report	LS	1	\$ _____	\$ _____
16	Structural Repairs 6050	LS	1	\$ _____	\$ _____
AM 02 16b	Extrusion Material	LS	1	\$ _____	\$ _____
17	Remaining Repairs & Re-Assembly 6050	LS	1	\$ _____	\$ _____
18	Jack Test	EA	1	\$ _____	\$ _____
19	Factory Testing	EA	1	\$ _____	\$ _____
20	Delivery to the Authority	EA	1	_____	_____
21	On-Site Testing, Commissioning, Acceptance	EA	1	\$ _____	\$ _____
22	Railcar Documentation	LS	1	\$ 20,000.00	\$ 20,000.00
<b>TOTAL Repair of Railcar 6050</b>					\$ _____

**Notes to Offerors:**

1. The unit prices shown on the Price Schedule Sheet shall constitute full compensation for all costs of performance under this contract.
2. The Authority reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Authority's best interest to do so.
3. Offerors may propose on repairing railcars 5056 and 5057; or railcar 6050; or all three railcars 5056 and 5057, and 6050.
4. For the railcars being offered to repair, every line item on the price schedule sheet must be completed.
5. Price evaluation will be based on the total proposed price for all items for the repair of railcar(s) being proposed.
6. Offerors are advised to become familiar with the Solicitation Instructions regarding proposal preparation, evaluation criteria and contract award.
7. The Authority will not make partial payments for Railcar Documentation.
8. The costs for the minimum orders of extrusions are to be included in the respective line items for the extrusion material. All excess extrusions are to be delivered to the Authority.

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**5. PRE-PROPOSAL CONFERENCE**

For the purpose of clarifying the terms, conditions, and requirements of this Request for Proposal, a pre-proposal conference will be held to respond to questions by interested offerors. **This pre-proposal conference will be held at 10:00 a.m. on March 19, 2013 at the WMATA Greenbelt Yard, 5801 Sunnyside Ave. Building C, College Park, MD 20740.** The purpose of this conference will be to answer questions regarding, or requests for clarifications of the solicitation documents. It is requested that offerors submit their questions in writing whether in advance of the meeting or during the meeting. Questions from the floor, however, are permissible.

All questions concerning the terms, conditions, and requirements of this Request for Proposal must be received by the Contracting Officer in writing no later than March 28, 2013.

AM 02 **Mandatory Inspection of Railcars:** The Authority will make the damaged railcars available for inspection immediately following the pre-proposal conference. The Authority will not make any comments during the inspections. Only written questions received as above will be answered. **The Authority is scheduling a second inspection for 10:00 a.m. April 11, 2013 beginning at Greenbelt Yard (only one inspection is mandatory).**

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The Authority will maintain a list of all offerors that have inspected the railcars. Proposals from Offerors that have not inspected the railcars will not be accepted.

**6. ACKNOWLEDGMENT OF AMENDMENTS**

Receipt of an amendment to a solicitation by an Offeror must be acknowledged (a) by signing and returning the amendment, (b) by identifying the amendment number and date on the Solicitation, Offer and Award Form, (c) and by expressly acknowledging the amendment on the designated form and including it as part of the proposal. Such amendment must be received prior to the hour and date specified in the solicitation. If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

**7. REVISIONS PRIOR TO DATE SET FOR RECEIPT OF PROPOSALS**

- a. The right is reserved by the Authority to revise or amend the Scope of Work, Description of Work, drawings, etc. prior to the date set for the opening of proposals. Such revisions and amendments, if any, will be announced by an amendment to the Request for Proposal. Copies of such amendments as may be issued will be furnished to all prospective bidders.
- b. If the revisions and amendments require material changes in quantities or price proposals, or both, the date set for the opening of proposals may be postponed by such number of days as in the opinion of the Authority that will enable offerors to revise their proposals. In such cases, the amendment will include an announcement of the new date for the opening of proposals.

- (1) A completed and signed Pre Award Evaluation Data form (furnished with the solicitation), including, but not limited to, the following: A statement of the Offeror's experience record, the type of concerns for which the work was performed, a statement by the financial institutions with which the Offeror conducts business and a list of contracts, if any, on which failure to complete within the specified time resulted in the assessment of liquidated damages.
- (2) Complete financial statements for the last two years, including Statement of Financial Position (Balance Sheet), Results of Operations (Income Statement), Statement of Changes in Financial Position (Net Change in Resources) and Statement of Current and Retained Earnings.

**16. PROPOSAL FORMAT INSTRUCTIONS/REQUIREMENTS**

The Offeror shall submit their proposal as follows:

a. Proposal Format

The original of Volumes I and II shall be unbound, all copies of Volumes I and II, as well as Volume III will be separately bound and all copies shall have the RFP number, the Offeror's identity, volume number, and volume title printed on the cover page. Volumes shall be submitted in the following order:

- (1) Volume I – Cost/Price – One (1) original AND 2 copies, AND one (1) electronic copy of the cost/price proposal to include the Price Schedule Sheet.
- (2) Volume II – Technical - One (1) original AND 5 copies of the technical proposal AND one electronic copy (**Shall not include cost/price information**).
- (3) Volume III – Contractual – Two (2) Originals and 1 electronic copy of the signed Solicitation, Offer and Award form; one (1) original, 2 copies AND one (1) electronic copy of the completed signed solicitation documents to include Representations, Certifications, Pre-Award Data, Certificate of Insurance, DBE requirements, per Appendix B and Amendments, if any.

b. Volume I – Cost/Price All information relating to cost or pricing data must be included in this volume. Under no circumstances shall cost or pricing data be included elsewhere in the Offeror's proposal. The Price Schedule Sheets are to be included in Volume I.

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c. Volume II - Technical Proposal. The technical proposal shall enable WMATA evaluating personnel to make a thorough evaluation and arrive at a sound determination as to whether or not the proposal will meet the specifications in accordance with the Authority's requirements. Technical proposals shall be specific, detailed, and complete and demonstrate that the Offeror has a thorough knowledge and understanding of the requirements. Offerors shall avoid statements which

## PART II, SECTION 2 - SPECIAL PROVISIONS

### 1. PERIOD OF PERFORMANCE

AM 02 The period of performance is 730 calendar days commencing on the date of award.

### 2. DELIVERY SCHEDULE

AM 02 a. The Authority requires delivery of the railcars within 670 calendar days from date of award of contract.

AM 02 b. The Authority requires acceptance and re-comminssing of the railcars within 700 calendar days from date of award of contract.

### 3. OPTION QUANTITIES

a. The Authority has the unilateral right to extend the contract by exercising the option or options (as applicable) subject to all terms and conditions herein.

b. The Authority may exercise the option(s) (if any) by written notice to the Contractor prior to commencement of the option period; provided, that the Authority shall give the contractor a preliminary notice of its intent to extend at least 30 days before the contract expires. The preliminary notice does not commit the Authority to an extension.

### 4. AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR - NOT USED

### 5. PRICING

Prices on the Bid Schedule Sheets submitted must include all associated costs, including but not limited to, travel, markups, overhead, and profit.

### 6. PAYMENT TERMS

a. Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the Offeror.

b. Except for the line items for documentation, partial payments are authorized upon receipt of supplies or services, acceptance by the COTR, and a properly executed invoice.



- (2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (e)(1) above, in precedence over any other clause of this contract providing for rights in data.
- (3) That the Authority is not precluded from using similar or identical data acquired from other sources.
- (4) That the data shall not be duplicated, disclosed, or released outside the Authority, in whole or in part for any acquisition or manufacturing purpose, if the following legend is marked on each piece of data to which this clause applies -

“This is furnished under Authority Contract No.        and shall not be used, duplicated, or disclosed for any acquisition or manufacturing purpose without the permission of ..... This legend shall be marked on any reproduction of this data.”

(End of legend)

- (5) That the Contractor shall not place the legend or any other restrictive legend on any data which (i) the Contractor or any subcontractor previously delivered to the Authority without limitations or (ii) should be delivered without limitations under the conditions specified in the clause Rights in Technical Data.
- f. The Contractor shall insert this clause, including this paragraph with appropriate changes in the designation of the parties, in subcontracts at any tier (including purchase designations or purchase orders) under this contract involving hazardous material.

**23. SPECIAL DELIVERY INSTRUCTIONS**

AM 02 a. The delivery of the repaired railcars and all excess extrusions shall be coordinated with the COTR at least 10 calendar days in advance of the expected delivey.

AM 02 b. The repaired railcars and all excess extrusions shall be delivered to:

WMATA Greenbelt Yard  
5801 Sunnyside Ave.  
College Park, MD 20740

**24. INSPECTION, TESTING AND ACCEPTANCE**

- a. The Contractor is responsible for performing or having performed all inspections and tests necessary to substantiate that the supplies or services furnished under this contract conform to contract requirements, including any applicable technical requirements for specified manufacturers’ parts.

**28. LIQUIDATED DAMAGES**

- a. In accordance with the delivery requirements, the Contractor shall be required to deliver to the Authority the repaired railcars in accordance with the approved contract delivery schedules (see Special Provision Article for Progress schedules). Failure solely on the part of the Contractor to deliver the repaired railcars shall cause the assessment of liquidated damages pursuant to the clause of this Contract entitled "Default" in the amounts listed below per calendar day beyond the specified delivery date. AM 02
- b. Liquidated damages will not be assessed for late delivery if the Contractor can substantiate that the delay was beyond its control and without the fault or negligence of the Contractor as set forth in the Default Clause of the General Provisions. In this regard, two lost work days per quarter for delay shall be forecast in the overhaul schedule and no time will be granted.
- c. Assessment:
1. Acceptance and re-commissioning: **\$400.00** per calendar day.
- d. Limitation:
- Liquidated damages will be limited, for all causes, to a maximum of \$500,000.00.
- e. Termination:
- If delivery or performance is so delayed or not meeting Contract requirements the Authority may terminate this contract in whole or in part under the Default clause in this contract and in that event the Contractor shall be liable for fixed, agreed, and liquidated damages accruing until the time the Authority may reasonably obtain delivery or performance of similar supplies or services. The liquidated damages shall be in addition to excess costs under the Termination provision.

**29. FORCE MAJEURE CLAUSE**

The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage under the following circumstances:

- a. If the delay in performing this work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, acts of the public enemy, acts of the Authority in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers at any tier arising from causes other than normal weather beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers.

paragraph (a);

- (3) participated in or cooperated with an inquiry or review by an authorized official of Metro, or by the federal government or any other governmental entity with jurisdiction over Metro, regarding a matter that would constitute a report under paragraph (a) or a violation of this or any whistleblower provision of this Contract, or with an enforcement or judicial proceeding arising from such inquiry or review;
- (4) refused to obey an order that would violate law; or
- (5) refused to work or authorize work when a hazardous safety or security condition presents an imminent danger of death or serious injury, there was no reasonable alternative to refusal, there was not sufficient time to eliminate the danger in absence of refusal and the individual, where possible, notified the Contactor or subcontractor of the condition and of the intent not to perform or authorize work.

d. The Contractor shall include, or shall cause to be included, the substance of this section, including this paragraph (d), in its subcontracts at all tiers.

**37. DRUG AND ALCOHOL TESTING**

Contractors who perform safety-sensitive functions shall be subject to compliance with a drug and alcohol testing program according to Federal guidelines published in FTA regulations (49 CFR Part 655).

**38. AUTHORITY FACILITIES**

If the Authority performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties. Such facilities shall include a standard connection high speed internet services.

**39. PROGRESS SCHEDULES**

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- a. The Contractor shall submit for approval a bar graph showing a critical path and in detail the sequence in which the Contractor proposes to perform the necessary work tasks to meet the delivery schedule required under this Contract.
- b. The Contractor shall monthly provide an updated schedule including a brief narrative describing any significant changes in the schedule to include, but not limited to: acquisition of long lead items, sub-contractor activities, production schedule and transportation.

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- c. If the Contractor shall submit a schedule or express an intention to complete the work earlier than any required milestone, interim or final completion date, the Authority shall not be liable for any costs incurred because of delay or hindrance should the Contractor be unable to complete the work before such milestone,

interim or final completion date. The duties, obligations and warranties of the Authority to the Contractor shall be consistent with and applicable only to the completion of the work and completion dates set forth in this Contract

**40. APPROVAL OF CONTRACTOR'S DRAWINGS AND OTHER TECHNICAL DATA**

- a. Wherever in the contract Specification the Contractor is required to submit drawings or other technical data (hereinafter referred to collectively as "technical data") for Authority approval during the progress of the work, five copies of such technical data shall be provided. The technical data shall be complete and detailed and shall be submitted using standard transmittal forms or Contractor forwarding letter in accordance with instructions furnished by the Authority.
- b. The Contractor's technical data shall be checked for completeness and accuracy and approved by the Contractor before they are submitted for Authority approval. Technical data submitted without the Contractor's approval affixed thereon may be returned to the Contractor for resubmission.
- c. The Contractor's schedule shall provide a minimum of thirty calendar days for approval or return for correction of the submitted technical data. The thirty-day period shall start at the time of receipt of the data by the Authority.
- d. Approval of technical data or lack thereof shall not be considered as withholding the right or inhibiting in any way the responsibility of the Contractor to proceed with the work or otherwise delaying the manufacture of the materials and/or equipment pending such approval.
- e. If the drawings or technical data show variations from the contract requirements, the Contractor shall fully describe such variations in writing, separate from the drawings or technical data, at the time of submission.
- f. Approval by the Authority shall not relieve the Contractor from responsibility for any errors or omissions in such drawings or technical data, nor from responsibility for complying with the requirements of this contract.

**41. CONTRACT MODIFICATIONS, REQUIREMENTS FOR PROPOSALS, PRICE BREAKDOWN AND NEGOTIATION OF PROFIT**

- a. The Contractor, in connection with any proposal he makes for a Contract modification, shall furnish a price breakdown, itemized as required by the Contracting Officer or other delegated Authority's Representative. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, subcontract and overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added or changed. Any amount claimed for subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification thereof shall also be furnished. The proposal, together with the price breakdown and time extension justification shall be furnished by the date specified by the Contracting Officer or other delegated

**CQ13055/RAM, 5K and 6K Railcar Repairs  
Questions and Answers No. 1  
April 04, 2013**

<b>No.</b>	<b>Reference</b>	<b>Question</b>	<b>Answer</b>
01		Based upon our preliminary review and the extensive damages that were described in the RFP CQ13055 documentation, we would like to request a 30 day extension for the deadline submittals that is set for April 11, 2013 to May 10, 2013. Please advise if it possible to have the original deadline extended.	The date for the receipt of proposals has been changed by amendment to April 18, 2013.
02	RFP Due Date	The documentation received is very detailed and comprehensive, so, in order to analyze it properly and to propose the best solution for the WMATA, we request an extension of both the "Proposal due date" and "Questions due date" of 5 weeks.	See answer to question no. 1. The questions due date is not changed.
03	Mandatory Inspection of Railcars	As indicated in the RFP: "Appointments may also be made to inspect the railcars up to five (5) business days before the proposal due date"; could the Authority confirm that all vendors can arrange more than one railcars inspection up to 5 days before the due date?	An amendment is being issued to delete the up to five day inspection period. For convenience and efficiency a second inspection is being scheduled for April 11, 2013. Technical questions will not be entertained. Only one inspection needs to have been accomplished to satisfy the mandatory requirement.
04	Complete Financial Statements Page 19	In which volume do the Financial Statements have to be included? Does the Authority accept [sic] to receive only one copy of the financial statements for the last 2 years?	One set in Volume III.
05	Spare Parts	Could we receive the detailed list of the parts to be provided by the contractor?	A list will be available on or about April 10, 2013.

**CQ13055/RAM, 5K and 6K Railcar Repairs  
Q&A No. 1, April 04, 2013**

No.	Reference	Question	Answer
06	The hidden damages	How would the customer like to deal with hidden damages not visible during walkthrough?	This customer would like the contractor to deal with all damages without any further questions or costs. Lacking that, each case shall be addressed individually. Offerors are cautioned to prepare proposals prudently.
07	Hazardous Materials	Are there any hazardous materials on the cars? If so please describe.	Yes, Ni-cad batteries. Also the dust contains traces of heavy metals (cadmium).
08	Technical	Have there been any modification to the configuration of the car (parts, systems) in the field since the car went into revenue service?	Yes.
09	Drawings	Are the drawings such as electrical schematics for the cars up to date?	The electrical schematics were up to date upon acceptance. For the 5K railcars there have been 243 EMIs performed and 126 for the 6K, a large number of which were software related. The EMIs will be available on or about April 10, 2013.
10	Technical	Will any special test equipment required for ATC etc. be available to the repair contractor?	Yes.
11	Technical	Have any of the vehicles had spare wires used?	Assume that no spare wires will be available.
12	Technical	Does the authority have extrusions available for the reparations (5K and 6K). If so please identify which ones and the quantity that is available.	No. Minimum order for extrusions has been stated to WMATA to be 6.5 metric tons. Availability is somewhat seasonal in between larger orders and it is incumbent upon the offerors to check with the manufacturer for scheduling. Excess extrusions, expected to be more than 50%, are to be turned over to the Authority.

**CQ13055/RAM, 5K and 6K Railcar Repairs  
Q&A No. 1, April 04, 2013**

No.	Reference	Question	Answer
13	Technical	Are crimp wires acceptable to the Authority?	Only at terminal blocks. Wires cannot be crimped or spliced together.
14	Price Schedule Sheet	Could the Authority confirm that the Offeror can quote the reparation for just one serial 5K or 6K?	Confirmed. Multiple awards are possible. Offerors are not required to propose on both the 5056/5057 repairs and the 6050 repairs. Offerors may propose on either or both.
15	Recommended Spare Parts  Page 19	As indicated in the RFP, the offeror is in charge of repairing the damaged car using the materials indicated in the original drawings and in the original Catalogue; based on the above information, please clarify which kind of recommended spare parts the Authority requests a list and pricing for.	The reference to spare parts is being deleted by amendment.
16	Special Provisions	The RFP is silent as to incidental and consequential damages. Therefore, the bidders would need to price in this level of risk accordingly. Would the Authority add a new Article 43 to the Special Provisions as follows: "43. NO INCIDENTAL OR CONSEQUENTIAL DAMAGES. Notwithstanding any other provision of this Contract, Contractor shall not be liable to the Authority by way of indemnity or by reason of any breach of this Contract or of statutory duty or by reason of any liability (including, but not limited to negligence) for loss of profit, loss of subsidy, loss of production, loss of any tax benefit, financing costs, or for any financial or economic loss or for any indirect or consequential damage or loss whatsoever that may be suffered by the Authority or any third party."	The proposed article will not be added.

**CQ13055/RAM, 5K and 6K Railcar Repairs  
Q&A No. 1, April 04, 2013**

No.	Reference	Question	Answer
17	Special Provisions	<p>The RFP contains no limitation on the Contractor’s total liability. Bidders would need to price in this level of risk accordingly. Would the Authority add a new Article 44 to the Special Provisions as follows:</p> <p>“44. LIMITATION OF LIABILITY Contractor’s total aggregate liability under the Contract whether based upon contract, tort (including negligence and strict liability) or otherwise, shall in no event exceed one hundred percent (100%) of the total Contract value. All claims by the Authority, against the Contractor arising under the Contract shall be brought within three (3) years after the end of the warranty under this Contract.”</p>	The proposed article will not be added.
18	Special provisions- Article 28- Liquidated damages	<p>Article 28 Liquidated Damages, of the Special Provisions, states that assessment of liquidated damages is in addition to excess costs under the Termination provision. To ensure we are clear “excess costs” are not related to delays, would the Authority add the following clarifying language as a new Paragraph f. to Article 28:</p> <p>“f. Liquidated damages, are understood to be direct, indirect, consequential, incidental or special damages associated with delays and are expressly the sole and exclusive remedy for the conditions associated with delays under the Contract.”</p>	No change.



**CQ13055/RAM, 5K and 6K Railcar Repairs  
Q&A No. 1, April 04, 2013**

<b>No.</b>	<b>Reference</b>	<b>Question</b>	<b>Answer</b>
19	General provisions- Article 15- Disputes	<p>Article 15 Disputes, of the General Provisions, does not allow for neutral arbitration. Would the Authority delete this Article in its entirety, and replace it with the following:</p> <p>“15 DISPUTES If the Contractor protests the determination of the Authority, any controversy, claim or dispute arising out of or relating to this Contract, either during the existence of the relationship or afterwards, shall be finally settled pursuant to the Commercial Arbitration Rules of the American Arbitration Association (“AAA”) which are in force at that time. The sole and exclusive venue for any disputes, claims, causes of action, legal or equitable shall be arbitration. The arbitration proceedings shall be conducted in Washington, D.C. The parties consent to this jurisdiction and shall not contest venue or personal jurisdiction in this forum. The arbitrator’s finding shall be final and binding. Judgment upon the award may be entered in any court of competent jurisdiction in the United States.”</p>	<p>No, however, a non-binding disputes review board may be possible before proceeding with the Disputes article should the Contractor elect to pay all the costs.</p>

**CQ13055/RAM, 5K and 6K Railcar Repairs  
Q&A No. 1, April 04, 2013**

No.	Reference	Question	Answer
20	Special provisions- Article 15- Indemnity	<p>Article 15 INDEMNITY, of the Special Provisions, is very broad, which will place risk upon bidders that they will have to price into their proposals. The provision does not limit the indemnity requirement to the extent of the Contractor's negligence. Would the Authority consider deleting this Article in its entirety and replacing with the following:</p> <p>"15. INDEMNITY The Contractor shall indemnify, defend, and save harmless the Authority and all its officers, agents, and employees against all suits, claims, or liability of every name and nature, for or due to any injuries to persons or damage to property arising out of or in consequence of the negligent acts or negligent failure to act of the Contractor in the performance of the work covered by the Contract or failing to comply with the terms and conditions of the Contract, whether by the Contractor or the Contractor's employees or Subcontractors."</p>	<p>No change. The indemnification required of the contractor in favor of the Authority is not limited to the extent of the Contractor's negligence, instead the Contractor's indemnification applies to any injury or damage resulting from the Contractor's activities; provided, however it is not caused by the Authority's sole negligence.</p> <p>The Authority will not consider any proportionate sharing of liability based on contributory negligence. The only exception to the Contractor's indemnification for injury or damage resulting from the Contractor's activities is if such is caused by the Authority's sole negligence.</p>
21		<p>The contract is for 400cds, how does WMATA intend to deal with delays in the contract due to material unavailability for the scope specified by them?</p>	<p>The completion date is being changed by amendment to 730 cds. A simple bar chart progress schedule showing a critical path is required by SP 39. The critical path will be used as a base to determine delays. The Contractor will not be responsible for delays beyond its control per GP 14.</p>

**CQ13055/RAM, 5K and 6K Railcar Repairs  
Q&A No. 1, April 04, 2013**

No.	Reference	Question	Answer
22		In order to ensure no gaps in scope appear in this contract, *** believe that a clearer definition of the material scope is required. Can WMATA please supply a detailed list of the BOM for both the 5000 cars and the 6000 car?	The Authority will provide a copy of the Illustrated Parts Catalog for each series on or about April 10, 2013.
23		In the event that a BOM is not available, can WMATA confirm that their scope includes all materials to put the damaged trains back in service or clearly define what scope of materials must be supplied by the contractor?	A summary list of parts that the Authority will supply will be furnished on or about April 10, 2013. Essentially the Contractor will be responsible for all wiring and extrusions.
24		For materials supplied by WMATA, availability is assumed to coincide with the repair program otherwise contractual delays will be accepted by WMATA from the day of request to delivery of the materials with no impact on Liquidated Damages?	Not exactly and certainly not from the day of request. A simple bar chart progress schedule showing a critical path is required by SP 39. Non critical parallel paths do not merit excusable delay. Authority furnished replacement parts will be available for the Contractor to pick up soon after contract award with coordination with the COTR.
25		Please confirm that during the testing phase, any materials supplied by WMATA found to be defective will be replaced in kind and any delays in the program due to the unavailability of replacements will be accepted from the day of the notification to delivery and retest of the part with no impact on Liquidated Damages.	See answer to question no. 24. Time will not be entertained for Authority furnished replacement parts which are damaged or miss-installed by the Contractor.

**CQ13055/RAM, 5K and 6K Railcar Repairs  
Q&A No. 1, April 04, 2013**

No.	Reference	Question	Answer
26		In order to repair car 6050, extrusions are required from Constellium that require the car builder's authorization to procure, does WMATA have any of these extrusions readily available or do they have the authority to procure them on a contractor's behalf?	No, the dies for the extrusions are proprietary to the railcar manufacturers. Also, see answer to question 12.
27		Can WMATA please confirm the static tests that will be required by the Authority to gain approval for Dynamic Testing?	A list will be available on or about April 10, 2013.10
28		Can WMATA please confirm the specific Dynamic tests that will be required by the Authority to gain approval and acceptance of the cars?	A list will be available on or about April 10, 2013.10
29		Due to long lead times and production schedules for extrusions that are not currently available, it is unlikely that the proposed schedule can be met. Is WMATA open to discuss a schedule which includes these long lead items and consideration for production schedules?	Completion is being changed by amendment to 730 cds.
30		We respectfully request a 4 week extension to the bid due date to allow us and our team to develop the most responsive and complete bid package for WMATA.	See answer to Question 1.