



Invitation For Bid

[Non-Federal]

Rail Inventory Parts

IFB No.: CQ15126/RSS

IFB Issue Date: August 12, 2015

BID Due Date: August 26, 2015

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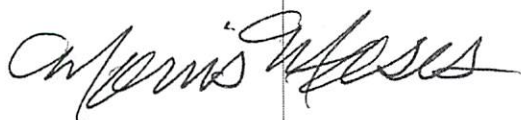
INTRODUCTORY INFORMATION

SOLICITATION CERTIFICATIONS PAGE

IFB No. CQ15126/RSS

KNORR RAIL INVENTORY PARTS

APPROVED FOR RELEASE

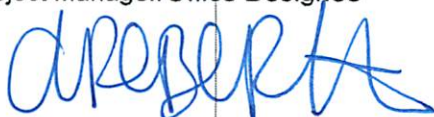


Morris Moses

Project Manager/Office Designee



Date




Allison Robertson

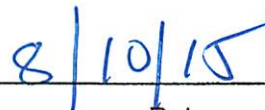
Contracting Officer



Date



COUN



Date

END OF SECTION

August 12, 2015

SUBJECT: Invitation for Bid (IFB) No. CQ15126/RSS_Rail Inventory Parts

Washington Metropolitan Area Transit Authority (WMATA) is seeking bids from qualified firms to supply Rail Inventory Parts for railcars. The Authority contemplates award of an Indefinite-Delivery-Indefinite-Quantity (IDIQ), firm-fixed price contract. The term of the contract shall be a one (1) year base period with four (4) one-year options to be exercised at the sole discretion of the Authority.

A pre-bid conference will not be held. Your bid must be submitted in accordance with IFB terms and delivered to WMATA's, Office of Procurement and Materials, 600 Fifth Street, N.W., Room 3C02, Washington, DC 20001. Bids must be submitted no later than 2:00 P.M. on August 26, 2015.

If you have any questions, technical, contractual or administrative please email them to the Contract Administrator, Rod So at rso@wmata.com no later than 12:00 PM, August 18, 2015. WMATA will provide written answers, by email to all those who obtain the IFB and provide their email addresses.

The following documents are to be submitted with Bidders' bid response:

Required bid documents:

- Solicitation, Offer & Award Form
- Price Schedule Base Year 1(Attachment 1)
- Option Years 1-4 Price Schedule (Attachment 2)
- Pre Award Survey
- Representations and Certifications
- Specifications (See price schedule base year 1, attachment 1)
- Certificate of Insurance
- Appendix C

Sincerely,

Contracting Officer

**NOTICE TO BIDDERS
IMPORTANT
PLEASE READ CAREFULLY**

To ensure submission of complete bids and to avoid irregularities that could result in a non-responsive bid, please check your bid for each of the following common responsiveness problems:

1. Have you checked your bid? Are all items included and checked for math errors?
2. If Amendments are included, have you acknowledged and recorded the number of Amendments on the bid envelope and Bid Form?
3. Have you signed and submitted the Bid Form. Solicitation, Offer & Award page(s)?
4. Have you properly completed and checked the appropriate box for each Certification and Representation? Have you included the Representations and Certifications with your bid?
5. Have you completed and included Pre Award Data?
6. Have you complied with the Appendix C requirements?
7. The Contractor's pricing, if offered to other jurisdictions, will be the same regardless of quantities ordered. The Authority makes no representations regarding the quantities that may be ordered by any such jurisdictions.
8. Bid envelope must be marked with Solicitation number and addressed to the Contract Administrator c/o Rod So; reference IFB No. CQ15126/RSS.
9. Include copies of any required Certificate(s) of Insurance.

NOTICE TO ALL VENDORS

Please be advised that all vendors and contractors who do business with the Washington Metropolitan Area Transit Authority (WMATA) must register in the WMATA Vendor Registration System. Registration is located at <http://www.wmata.com>

New Vendor Registration.

If you are a vendor or contractor and *HAVE* done business with WMATA in the past, please electronically request your company's User ID and Password at <http://www.wmata.com>

Forgot User Id/Password.

Registered Vendor Benefits:

- Visibility to WMATA contract administrators and/or purchasing agents during the purchasing decision period;
- Visibility to other 17,500 registered vendors for possible business opportunities;
- Opportunity to update online, company information such as an e-mail address or contact person on-line;
- Electronic payment option; and
- Ability to electronically reset User Id and Password.

Any questions regarding registration may be addressed to Vendor Relations at (202) 962-1408 or procurement@wmata.com.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY
SUPPLY AND SERVICE CONTRACT IFB No. CQ15126/RSS

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SOLICITATION, OFFER AND AWARD

CONTRACT NO.	SOLICITATION NO. IFB No. CQ15126/RSS	DATE ISSUED August 12, 2015	ADDRESS OFFER TO OFFICE OF PROCUREMENT Rod So Office of Procurement 600 Fifth Street NW Washington, DC 20001
	<input checked="checked" type="checkbox"/> ADVERTISED <input type="checkbox"/> NEGOTIATED		

SOLICITATION

Sealed offer in **One (1) Compact Disk or USB flash drive, Two (2) hard copies (original plus one)** for furnishing the supplies or services in the schedules will be received at Authority until **2:00 P.M.** Local time **August 26, 2015.**
 (Hour) (Date)

If this is an advertised solicitation, offers will be publicly opened at that time.

All offers are subject to the following:

1. The Solicitation Instructions which are attached.
2. The terms and conditions which are attached.
3. The Schedule included herein and/or attached hereto.
4. Such other provisions, representations, certifications, and specifications, as are attached or incorporated herein by reference.

Bidder's Phone Number _____

Bidder's Email Address: _____

SCHEDULE

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	(See continuation of schedule on page 22)				\$

DUN & BRADSTREET ID NUMBER: _____

OFFEROR

Name and Address (Street, city, county, state, and zip code)	Name and Title of Person Authorized to Sign Offer (Print or Type)
<input type="checkbox"/> Check if remittance is different from above — enter such address in Schedule	Signature Offer Date

AWARD (To be completed by The Authority)

ACCEPTANCE AND AWARD ARE HEREBY MADE FOR THE FOLLOWING ITEM(S):

ITEM NO.	QUANTITY	UNIT	UNIT PRICE

The total amount of this award is \$ _____

 Name of Contracting Officer (Print of Type) WASHINGTON METROPOLITAN TRANSIT AUTHORITY AWARD DATE

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SUPPLY AND SERVICE CONTRACT

IFB No. CQ15126/RSS

For the Schedule of Prices, Refer to the Excel attachment in this Invitation for Bid

PRICE SCHEDULE SHEET INSTRUCTIONS

Electronic spreadsheets have been included with the solicitation to be used as the worksheet for the Offeror's submittal of pricing, lead times, comments regarding packaging or other relevant item information, and basic technical information.

Please submit Price Schedule Sheet as an Excel format. SEE ALSO SCOPE OF WORK (Attachment 1).

Part Number (P/N) – The approved WMATA part numbers are shown in the columns labeled “Vendor P/N.”

Offeror shall indicate the Manufacturer/Brand Name, the part number, and the delivery/lead time for each item proposed. Failure to do so may necessitate rejection of the proposal in part or in its entirety.

If Offeror is proposing an alternate part rather than one of the approved part numbers, then Offeror must provide the following documentation as part of the Technical Volume 2:

- 1) Submission of proof which illustrates that the product complies and adheres to appropriate industry standards for form, fit and function, including but not limited to ASTM, FMVSS, MIL, SAE or UL
- 2) Accredited Independent Laboratory analysis report(s) on the proposed part.
- 3) Physical characteristics, properties, specifications and drawing of the proposed part.
- 4) Copy of Quality Assurance Program and Quality Assurance Manual for the proposed part.
- 5) Contact names and telephone numbers of the other Municipalities with Transit fleets and other users that utilize the proposed part.

Space is provided on the price sheet for you to indicate that you have provided these documents. Please indicate for each part that you are proposing an alternate, that you have provided the required documentation.

First Article Inspection (FAI). For Non Approved Suppliers of a Part(s) and/or which is not an approved P/N, will be required to go through an engineering qualification and FAI process. The costs incurred for this process will be the responsibility of the Offeror, whether approved or disapproved.

During the process of a new supplier becoming qualified for a particular part, WMATA reserves the right to purchase from the originally approved supplier or OEM until the engineering qualifications and FAI are completed.

Authorized Signature

Company Name

Date

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SUPPLY AND SERVICE CONTRACT

IFB No. CQ15126/RSS

Note to Proposers:

1. The offeror shall make entries in the columns titled unit price, extended price, and lead time for each line item for which the offeror submits an offer. The lead time is the number of days required by the offeror to make the first delivery against the awarded contract.
2. The contract price will be evaluated based on the base price and option prices. The Authority retains the right to award based on total base price only, total base plus options or any combination of base price plus options.
3. Offerors may submit prices on one or any combination of line items. However, prices submitted for any line item must include prices for the base year and the percent price escalation for the option years.
4. A Material Safety Data Sheet (MSDS) must be submitted in the proposal for all items marked with an asterisk (*) in the Description column.

AWARD SCHEDULE CONTINUED FROM AWARD FORM:

TERM OF THE CONTRACT: The term of this contract shall be one (1) year Base with four (4) one-year options to be exercised at the sole discretion of the Authority as described in the Special Provisions. Contractor will be required to comply with warranty and reliability programs, if any.

TYPE OF CONTRACT: The Authority contemplates award of an Indefinite-Delivery-Indefinite-Quantity (IDIQ); firm-fixed price contract.

AVAILABILITY OF FUNDS: See Availability of Funds in Special Provisions "article in the terms and conditions".

CONTRACT: In accordance with the solicitation documents, Contract incorporates the following:

IFB No. CQ15126/RSS dated August 12, 2015 (inclusive of Solicitation Instructions, Representations and Certifications, General Provisions, Special Provisions, Technical Specifications, Appendices and Amendment Nos. 1 through X);

Offeror's Bid dated

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SUPPLY AND SERVICE CONTRACT

IFB No. CQ15126/RSS

IFB No. CQ15126/RSS PRICE SCHEDULE SHEET (Continuation)

Note to Offerors:

1. This is an Indefinite Delivery, Indefinite Quantity (IDIQ) type contract for the items listed in the unit Price Schedule. The unit price for each item shall be fixed. All items will be ordered by the Contracting Officer, an Authority Ordering Officers or Authority Representative and based on the items in the Price Schedule Sheet. Note that there is no guarantee that orders will be issued for the total amount of the initial contract award or the total proposed price.
2. All quantities are estimated for pricing purposes. The Offeror is notified that there will be no adjustment of unit prices for variation in quantities between the estimated quantities and the final quantities ordered in this Contract.
3. The guaranteed **minimum** order which will be required under this contract shall be a total of Two Hundred Thousand Dollars (\$ 200,000.00).
4. The **maximum** order which may be ordered by one or more Orders shall be a total of Seven Million and Nine Hundred Thousand dollars (\$ 7,900,000.00).
5. Failure to bid on all items in the price Schedule necessitate rejection of the offer.
6. The Total Offeror's Bid will be the sum of all price extension amounts for the listed items.
7. All extensions of the unit prices shown will be subject to verification by the Authority. In case of variation between the unit prices and the extension, the unit price will be considered the offer.
8. The unit price shown on the Price Schedule Sheet shall constitute full compensation for all costs or performance under this Contract.
9. The total bid price will be evaluated based on the total base price plus all option year(s). The Authority retains the right to award based on total base price only, total base plus options or any combination of base price plus options.
10. The initial award amount will be for the total Authority budget amount for this Contract. The Authority's obligation under this Contract is limited to the amount of the Orders placed and the availability of funds as described herein.
11. Notification of the availability of additional funds shall be made as soon as practical if and when the funds become available, but not later than June, 30 of the respective fiscal year unless a later date is agreed to in writing.
12. Offerors are advised to become familiar with the Solicitation Instructions regarding proposal preparation, evaluation criteria and contract award.
13. Offerors are advised to become familiar with articles for availability of funds, multi-year contracts and cancellation of items. The Contractor is advised not to perform any work or incur any costs for work above the available funding until notified in writing by the Contracting Officer.
14. Invoices for payment shall correspond to each Order.

ORDERING:

- a. Orders will include the following information:
 - (1) Date of the order;
 - (2) Contract number and an order number;
 - (3) Item number, description, quantity, and unit price;
 - (4) Delivery or performance date;
 - (5) Place of delivery or performance;
 - (6) Packaging, packing, and shipping instructions (if any);
 - (7) Accounting data; and
 - (8) Any other pertinent information.

CONTRACT QUANTITY LIMITATIONS:

- a. Minimum Quantity -- \$ 200,000.00
- b. Maximum Quantity -- \$ 7,900,000.00
- c. Vendor may propose minimum and maximum order quantities.

INDEFINITE DELIVERY/INDEFINITE QUANTITY

- a. This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services listed in the Schedule are estimates only and are not purchased by this Contract.
- b. Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering Clause. The Contractor shall furnish to the Authority, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the maximum. The Authority shall order at least the quantity of supplies or services designated in the Schedule as the minimum.
- c. Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Authority may issue orders requiring delivery to multiple destinations or performance at multiple locations.
- d. Any order issued during the effective period of this Contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Authority's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided that the Contractor shall not be required to make any deliveries under this contract after five years from date of contract award.

ACKNOWLEDGMENT OF AMENDMENTS

The undersigned acknowledges receipt of the following amendments to the Solicitation Documents (Give number and date of each):

Amendment Number____, dated_____

Amendment Number____, dated_____

Amendment Number____, dated_____

Amendment Number____, dated_____

Failure to acknowledge receipt of all amendments may cause the bid to be considered not responsive to the solicitation, which would require rejection of the bid.

DIRECTIONS FOR SUBMITTING BID:

1. Read and comply with the Solicitation Instructions. This form is to be submitted with the Bid Schedule. Attached certification and Appendix C (Small Business & Local Preference Program – SBLPP) data must be completed and returned with the bid forms.
2. Complete and return the Representations and Certifications forms.
3. Include copies of the required Certificate(s) of Insurance.
4. Envelopes containing bids and related required documents must be sealed, marked and addressed as follows:

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY
BID UNDER SOLICITATION IFB No. CQ15126/RSS
OFFICE OF PROCUREMENT
600 FIFTH STREET N.W
WASHINGTON, DC 20001

BIDS SHALL BE TIMELY MAILED OR HAND DELIVERED TO REACH WMATA BEFORE 2:00 P.M. (LOCAL TIME) ON DAY OF BID OPENING CLOSING. BIDS HAND CARRIED BETWEEN 1:00 P.M. AND 2:00 P.M. SHOULD BE PRESENTED TO THE CONTRACT ADMINISTRATOR.

**INVITATION FOR BID
SOLICITATION INSTRUCTIONS**

1. INTRODUCTION

- a. The Authority seeks to award a Contract to a firm who would be able to supply Rail Inventory Parts. To that end, it is issuing this Invitation for Bid (“IFB”) to solicit bids from qualified firms and individuals who can satisfy the requirements of the accompanying Contract Documents.
- b. As this is a low bid solicitation, award of a Contract hereunder shall be to the lowest priced, responsible bidder whose Bid is responsive to, and meets all requirements of, the Solicitation.
- c. The Authority contemplates award of an Indefinite-Delivery-Indefinite-Quantity (IDIQ); firm-fixed price contract.
- d. Bidders are advised that the quantities of supplies or services specified in the Price Schedule are estimates only, included for purposes of bid evaluation and in order to provide information to assist the bidders in formulating their bids. While they represent the Authority’s best such estimate as of the time of the solicitation, they do not constitute a commitment on the part of the Authority to procure supplies or services at the estimated level.

2. GOODS TO BE FURNISHED/SERVICES TO BE PERFORMED

Bidders are advised that:

- a. If “services” are to be performed pursuant to this solicitation, they must be provided in all respects as specified in the accompanying Contract documents and include the services to be furnished, together with any labor, material or other work necessary for satisfactory performance.
- b. If “supplies” are to be provided pursuant to this solicitation, they must be in all respects as specified in the Contract documents and include the items to be furnished, together with any labor, service or other work necessary for satisfactory performance.
- c. Unless otherwise specified, all goods and materials furnished to the Authority must be new and unused.

3. COMMUNICATIONS WITH THE AUTHORITY

Prospective bidders are advised that any and all communications with WMATA relating to this solicitation and made by, or on behalf of, a prospective Bidder at any time between release of this Invitation for Bidders and award of a contract hereunder must be directed to the Contract Administrator as follows:

Rod So
Contract Administrator
Email: rso@wmata.com

A violation of this provision, deemed willful by the Authority, may result in a determination that a Bidder is not responsible, and thus ineligible for award, for purposes of this solicitation.

4. EXPLANATIONS TO BIDDERS

- a. Any explanation or clarification desired by a bidder regarding the meaning or interpretation of this Invitation for Bid, terms and conditions, specifications, drawings, and/or other documents relating to this Solicitation must be requested in writing and with sufficient time allowed for a reply to reach all bidders before the time set for the opening of bids. Absent extraordinary circumstances, all such inquiries should be transmitted in a time frame such as to ensure their receipt by the Contracting Officer at least ten (10) days prior to the date specified for the opening of bids.
- b. Any information furnished by the Authority to a prospective bidder relating to this solicitation will be provided promptly in writing to all prospective bidders as an amendment to this solicitation pursuant to paragraph 6 below if, in the judgment of the Authority, the information is necessary to the preparation and/or submittal of bids or lack of such information would be otherwise prejudicial to other prospective bidders.
- c. Oral explanations, representations or instructions of any kind relating to the subject matter of this solicitation and given at any time before the award of the Contract by any employee, officer or agent of the Authority will not be binding upon the Authority; nor does the Authority assume responsibility for the accuracy of any such communication.
- d. The failure of a prospective bidder to request an explanation or clarification as provided herein will preclude the bidder from thereafter claiming any ambiguity, inconsistency or error that should have been discovered by a reasonably prudent bidder. All Requests for explanation should be addressed as follows and submitted via e-mail to Rod So at rso@wmata.com reference IFB No. CQ15126/RSS Rail Inventory Parts. The **deadline for the request for explanation** will be Close of Business of **August 12, 2015**.

5. PRE-BID MEETING

NOT APPLICABLE

6. AMENDMENTS TO IFB

- a. The Authority reserves the right to revise or amend the terms of this IFB, the proposed Contract's terms and conditions, the scope of work and/or drawings prior to the date set for the opening of bids. Such revisions and amendments, if any, will be announced by amendment(s) to this Invitation for Bid. Written copies of such Amendment(s) as may be issued will be made available to all prospective bidders.
- b. If, in the judgment of the Authority, any such amendment(s) would require significant changes in quantities and/or bid price, the date set for the opening of bids may be postponed by such number of days as in the opinion of the Authority will enable bidders to revise their bids. In such cases, the Amendment will include an announcement of the new date for the opening of bids.

7. ACKNOWLEDGMENT OF AMENDMENTS

Bidders are required to acknowledge receipt of all amendments to this Invitation on the Amendment Acknowledgement Form prior to opening of bids. Failure to acknowledge all amendments may cause the bid to be considered not responsive to the solicitation, which would require rejection of the bid.

8. PREPARATION OF BIDS

- a. Bids shall be submitted on the Price Schedule furnished, or copies thereof, and must be manually signed. If erasures or other changes appear on the forms, such erasures or changes must be initialed by the person signing the Bid.
- b. Bidders shall furnish all information required by this IFB and, in so doing, are expected to examine fully the IFB documents. Failure to do so will be at the risk of the bidder.
- c. Discounts for prompt payment will not be considered in the evaluation of bids. However, any offered discount will be included within the award of the Contract and will be taken by the Authority if payment is made within the discount period referenced in the Bid.
- d. The Price Schedule may provide for submittal of a price or prices for one or more items that may be unit prices, lump sum bids, alternate prices, or a combination thereof. Submittal of a price on all items in the Price Schedule is not required, bidders shall insert the words "NO BID" in the space provided for any item for which price is submitted.
- e. All bid prices shall be deemed to include the cost of all work, labor and materials required by the Contract Documents, including without limitation, delivery charges, insurance, container charges or any other expenses incidental to the work, as well as expenses associated with compliance with federal, state or local laws or regulatory requirements. All bid prices are deemed to be F.O.B. destination.

- f. Unless specifically called for in the Price Schedule, alternate bids will not be considered.

9. SUBMITTAL OF BIDS

- a. Bids shall be enclosed in sealed envelopes and addressed to the office specified in the solicitation.
- b. The face of the envelope should show the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the bidder. Failure to do so may result in a premature opening of, or a failure to open, such bid, for which occurrences the Authority shall assume no responsibility.
- c. Facsimile bids will not be considered.
- d. All bids will remain sealed until the date and time specified for the opening of bids.

10. RESPONSIVE BIDS

- a. Bidders are advised that a bid that is at variance or non-compliant with any provision of this Solicitation, including a qualified or conditional bid, may be rejected as non-responsive.
- b. The Authority may reject a bid as non-responsive if, in the judgment of the Authority, the prices bid are materially unbalanced. A Bid is materially unbalanced when it is based on prices that are significantly understated for one or more elements of work and significantly overstated for other element(s) of work.
- c. Notwithstanding anything to the contrary contained herein, the Authority reserves the right to waive minor errors or omissions with respect to a bid and to deem such bid responsive.

11. LATE BIDS AND MODIFICATIONS OR WITHDRAWALS PRIOR TO BID OPENING

- a. Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it--
 - (1) Was sent by registered or certified U.S. or Canadian mail not later than the fifth Day before the date specified for receipt of bids (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th);
 - (2) Was sent by first class mail and it is determined by the Authority that the late receipt was due solely to mishandling by the Authority after its timely delivery on Authority premises;
 - (3) Was sent by U.S. Postal Service Express Mail Next Day Service not later than 5:00 p.m. at the place of mailing at least two business days prior to

the date specified for receipt of bids. The term "business days" excludes weekends and U.S. federal holidays.

- b. Any modification or withdrawal of a bid is subject to the same conditions as set forth in subparagraphs (a)(1), (2), and (3) above.
- c. The only acceptable evidence to establish the time of receipt by the Authority is the time/date stamp of that event on the bid wrapper or other documentary evidence of receipt maintained by the Authority.
- d. Notwithstanding sub-paragraph "a" above, a late modification of any otherwise successful bid that makes its terms more favorable to the Authority will be considered at any time it is received and may be accepted.
- e. Bids may be withdrawn by written notice received by the Authority before the opening of bids. Bids may be withdrawn in person by a bidder, or an authorized representative of the bidder if the representative's identity is established to the satisfaction of the Authority and the representative signs a receipt for the return of the Bid, before the opening of bids. The attempted withdrawal of a Bid, proffered or received subsequent to the Bid opening and during the Acceptance Period set forth in paragraph 12, will not be honored and will be without effect.

12. BID ACCEPTANCE PERIOD AND BIDDER'S DEFAULT

- a. The acceptance period for this solicitation is one-hundred-twenty (120) calendar days.
- b. By submission of its bid, the bidder agrees that its bid shall be irrevocable and remain available to WMATA for purposes of awarding a contract pursuant to this Solicitation for not less than the Acceptance Period. The bidder's failure or refusal to execute and/or furnish such contract documents as may be required in the Solicitation or otherwise accept and/or proceed to execute a Contract from WMATA in accordance with its bid during the acceptance period shall constitute a bidder's Default.
- c. In the event of a bidder's default, the bidder shall be liable to WMATA for all associated damages and costs, including without limitation WMATA's "cost to cover", i.e. the difference between the bidder's bid price and the price ultimately paid by WMATA for the work encompassed in this Solicitation, whether through award of a contract to another bidder pursuant to this Solicitation or otherwise.

13. BID GUARANTEE

NOT APPLICABLE.

14. BID MISTAKE

- a. A bidder who seeks to withdraw its Bid subsequent to Bid opening due to a claimed mistake or error in preparation shall notify the Authority in writing immediately upon realizing the mistake and in no event later than 3 business days following Bid opening, setting forth the details of, and explanation for, the claimed mistake. The Authority shall evaluate the claimed mistake and determine whether the Bidder will be permitted to withdraw its Bid.
- b. In the event of an apparent discrepancy between any unit price and its associated extended price, the unit price will be presumed to be correct. The Authority may proceed to award a Contract to an otherwise low bidder based upon utilization of the unit price, subject to the additional terms of this paragraph.
- c. A bidder claiming a mistake shall, if so requested by the Contracting Officer, appear before one or more designated representative(s) of the Authority to provide testimony and/or documentation, which may include the bidder's computation sheets and calculations, to assist in the Authority's determination.
- d. Nothing contained herein shall be deemed to preclude the Authority from allowing a bidder to cure a deficiency in an otherwise responsive Bid where the Authority determines that such deficiency is in the nature of a minor informality or irregularity.

15. REPRESENTATIONS, CERTIFICATIONS, AND ACKNOWLEDGMENTS

The bidder shall check or complete all applicable boxes or blocks, and provide all requested information, on the attached "Representations and Certifications" form. Bidders are reminded of the obligation to fully and faithfully complete the accompanying "Representations and Certifications" form, as applicable, which must be submitted with the Bid. Failure to do so may result in the Bid being rejected as non-responsive.

16. LAWS AND REGULATIONS

Bidders are responsible for fully informing itself with respect to the requirements for, and to comply with, any and all applicable State of Maryland, Commonwealth of Virginia, District of Columbia, federal and local laws and regulations governing the service to be provided under the Contract. Further, the successful bidder shall be responsible to obtain, at its own cost and expense, any and all licenses/permits required to transact business in any political jurisdictions to be serviced.

17. ROYALTY INFORMATION

NOT APPLICABLE

18. REQUIREMENT FOR COST DATA FOR CONTRACT AWARD

The Authority may require the apparent low bidder to submit cost data in sufficient detail to permit analysis of the cost elements that comprise the bid prices. In such instances, the apparent low bid may, at the discretion of the Authority, be subject to audit.

19. PRE-AWARD INFORMATION/BIDDER RESPONSIBILITY

- a. In order to be eligible for award, the low bidder will be required to demonstrate its ability to perform the services and furnish the supplies contained in the solicitation, in a timely manner, to the complete satisfaction of the Authority. Failure on the part of the low bidder to so demonstrate that it maintains the requisite integrity, overall technical capability and financial resources to perform the work in a satisfactory and timely manner may result in a rejection of the low bidder as not responsible. In such event, the second lowest bidder will be required to demonstrate its responsibility, a process which will continue until a bidder successfully demonstrates that it is responsible for purposes of this solicitation.
- b. To assist in the Authority's evaluation of its responsibility for purposes of award of a Contract hereunder, the apparent lowest responsive bidder shall furnish the following when requested by the Contracting Officer:
 - (1) A completed and signed Pre-Award Evaluation Data form (copy attached), including the required financial statements;
 - (2) Disadvantaged or Small Business Enterprise data as set forth in Appendix B (if required).

20. PRE-AWARD MEETING

The Authority reserves the right to require that a pre-award meeting be held with the apparent low bidder prior to award of a Contract in order to further assist the Authority in determining the Bidder's responsibility for purposes of award. The Contractor shall be represented at such meeting by individual(s) fully familiar with the contractual requirements including, where so requested by the Authority, representative(s) of one or more major subcontractor(s).

21. SITE VISIT/INSPECTION OF BIDDER'S FACILITIES

Bidders must provide and maintain sufficient facilities that will allow them to adequately perform contract functions as specified herein. WMATA may make site visits prior to contract award to examine the bidder's facilities. This will include members of the procurement and technical teams involved in this solicitation to verify that necessary equipment, supplies, etc. are readily available.

22. BASIS FOR AWARD

- a. Award(s) of a contract hereunder will be made to the bidder(s) (i) whose bid is judged to be responsive to the terms of the solicitation and based solely upon the price as identified in the Price Schedule and (ii) who demonstrates to the satisfaction of the Authority that it is responsible for purposes of award of this Contract.
- b. Unless otherwise expressly specified in the Price Schedule, the Authority may make multiple awards as a result of this solicitation.
- c. Notwithstanding the foregoing or any other provision in the Contract documents, the Authority reserves the right to reject all bids and cancel this solicitation at any time prior to award.

23. CONTRACT AWARD

A written award mailed or otherwise furnished to the successful bidder within the acceptance period shall result in a binding contract without further action by either party.

24. EQUAL EMPLOYMENT OPPORTUNITY

In order to be eligible for award of a contract pursuant to this solicitation, the apparent low bidder will be required to comply with all applicable Equal Employment Opportunity laws and regulations.

25. OPPORTUNITY FOR SMALL AND LOCAL BUSINESS ENTERPRISES TO BID

It is the policy of the Authority that small and local businesses shall be given maximum practicable opportunity to receive and participate in performing WMATA non-federally funded contracts, including contracts and subcontracts at any tier.

26. NOTICE OF PROTEST POLICY

- a. WMATA policy and procedure for the administrative resolution of protests is set forth in Chapter 17 of the Procurement Policy Manual (PPM). A copy of the PPM is available at www.wmata.com.
- b. With respect to federally funded contracts, FTA Circular 4220.1F, Chapter VII-1, addresses bid protests. In general, FTA will only review protests submitted by an interested party regarding the alleged failure of the grantee to have a written protest procedure or to follow such procedures and may exercise discretionary jurisdiction over appeals important to its overall transportation program.

27. WMATA'S TAX EXEMPT STATUS

- a. Pursuant to Article XVI, Paragraph 78, of the Washington Area Metropolitan Transit Authority Compact, as adopted by the State of Maryland, the District of Columbia, and the Commonwealth of Virginia, with the authorization and consent

of the Congress of the United States, the Authority has been accorded exemption from taxes as follows:

"The Authority and the Board shall not be required to pay taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision, or upon its activities in the operation and maintenance of any transit facility or upon any revenues therefrom, and the property and income derived therefrom shall be exempted from all Federal, State, District of Columbia, municipal, and local taxation. This exemption shall include without limitation, all motor vehicle license fees, sales taxes and motor fuel taxes."

- b. It has been the practice of the District of Columbia to apply the Authority's tax exempt status to certain purchases of materials required under Authority construction contracts and acquired by contractors for physical incorporation into the project work. This has not been the practice in either Maryland or Virginia. The Authority does not represent or warrant that the District of Columbia practice applies to this project or, if it does, that it will continue in effect during the term of this project. It is the responsibility of the Contractor to determine its liability for any and all taxes applicable to this project. Assessment or payment of taxes by the Contractor, including taxes resulting from changes in existing laws or the application thereof or of new or additional taxes, shall not constitute the basis for an increase in the Contract price, except as otherwise allowed under the General Provisions Article, FEDERAL, STATE AND LOCAL TAXES, of this Contract.
- c. The Authority's tax exempt numbers are as follows: District of Columbia -- 5611-0082187-001; Maryland -- 30072210; Virginia -- 5280-0067
- d. By submission of its Bid, the bidder certifies that none of the taxes as to which the Authority is exempt are included in its bid price(s).

28. ENGLISH LANGUAGE AND UNITED STATES CURRENCY

With respect to both this Solicitation and the resultant Contract:

- a. All communications (oral, written, electronic and otherwise including but, not limited to, software coding) shall be in the English language.
- b. All pricing shall be in United States dollars.

29. BRAND NAME OR EQUAL

- a. If items called for by this IFB have been identified in the Price Schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Bids offering "equal" products including products of the brand name manufacturer other than the one described by brand name will be considered for award, if such products are clearly identified

in the Bid and are determined by the Authority to meet fully the salient characteristics requirements in the IFB.

- b. Unless the Bidder clearly indicates that it is offering an "equal" product, its Bid shall be considered as offering a brand name product referenced in the IFB.
- c. If the Bidder offers to furnish an "equal" product, the brand name, if any, of the product shall be furnished in the space provided in the Invitation for Bid, or such product shall be otherwise clearly identified in the Bid. The determination as to equality of the product offered shall be at the sole discretion of the Authority.

CAUTION TO BIDDERS. WMATA is not responsible for locating or securing any information that is not identified in the Bid and/or reasonably available to the Authority. Accordingly, to ensure that sufficient information is available, the Bidder must furnish as a part of its bid all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the Authority to determine whether the product offered meets the requirements of the IFB.

30. PERFORMANCE AND PAYMENT BONDS

NOT APPLICABLE.

REPRESENTATIONS AND CERTIFICATIONS
(NON-FEDERALLY FUNDED SUPPLY/SERVICE/CONSTRUCTION CONTRACTS)

REPRESENTATIONS

Instructions: Check or complete all applicable boxes or blocks on this form and submit it with your offer.

1. TYPE OF BUSINESS ORGANIZATION (RC-101, MAY 07)

By submission of this offer, the offeror represents that it operates as an individual, a partnership, a limited liability company, a joint venture, a nonprofit organization, or a corporation, incorporated under the laws of the State of _____.

2. AFFILIATION AND IDENTIFYING DATA (RC-102, MAY 07)

Each offeror shall complete (a), (b) if applicable, and (c) below, representing that:

(a) It is, is not, owned or controlled by a parent company. For this purpose, a parent company is defined as one which either owns or controls the activities and basic business policies of the offeror. To own another company means the parent company must own at least a majority, i.e., more than 50 percent, of the voting rights in that company. To control another company, such ownership is not required; if another company is able to formulate, determine or veto basic business policy decisions of the offeror, such other company is considered the parent of the offeror. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangements or otherwise.

(b) If the offeror is owned or controlled by a parent company, it shall insert in the space below the name and main office address of the parent company:

Name of Parent Company

Main Office Address (including ZIP Code)

(c) If the offeror has no parent company, it shall provide in the applicable space below its own Employer's Identification Number (E.I.N.), (i.e., number used on Federal Tax Returns or, if it has a parent company, the E.I. No. of its parent company).

Offeror E.I. Number: _____ or, Parent Company's E.I. Number: _____

(d) If a Data Universal Numbering Systems (DUNS), number has not been established for the address entered on the Solicitation, Offer, and Award Form, the Authority will arrange for the assignment of this number after award of a contract and will notify the Contractor accordingly.

3. SMALL BUSINESS & LOCAL PREFERENCE PROGRAM (SBLPP)

This representation is applicable to non-federally assisted contracts. By submission of this offer, the offeror represents that:

(a) It is, is not, a small business and local preference program enterprise certified firm. "Small Business and Local Preference Program" enterprise means a for profit small business concern that is located in the District of Columbia, Maryland, or Virginia and meets the U.S. Small Business Administration small business size standards.

CERTIFICATIONS

4. COVENANT AGAINST GRATUITIES (RC-106, MAY 07)

By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

Neither it nor any of its employees, representatives or agents have offered or given gratuities (in the form of entertainment, gifts or otherwise) to any director, officer or employee of the Authority with the view toward securing favorable treatment in the awarding, amending, or the making of any determination with respect to the performing of the contract.

5. CONTINGENT FEE (RC-107, MAY 07)

By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

- (a) It [] has, [] has not, employed or retained any company or persons (other than a full-time, bona fide employee working solely for the offeror) to solicit or secure this contract, and
- (b) It [] has, [] has not, paid or agreed to pay any company or person (other than a full-time, bona fide employee working solely for the offeror) any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this contract.

6. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION (RC-110, MAY 07)

(a) By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

- (1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or with any other competitor, as to any matter relating to such prices;
- (2) Unless otherwise required by law, the prices quoted in this offer have not been knowingly disclosed by the offeror and will not be knowingly disclosed by the offeror prior to the opening of bids (in the case of a sealed bid solicitation), directly or indirectly, to any other bidder or to any competitor; and
- (3) No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit an offer for the purpose of restricting competition.

(b) Each person signing this offer certifies that:

- (1) He or she is the person in the offeror's organization responsible for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above; or
- (2) He or she is not the person in the offeror's organization responsible for the decision as to the prices being offered herein, but that he/she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated; and will not participate, in any action contrary to (a)(1) through (a)(3) above, and as their agent does hereby so certify.

**NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATION
OF NONSEGREGATED FACILITIES**

A Certification of Nonsegregated Facilities must be submitted prior to award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for such subcontract or for all subcontracts during a period (i.e., quarterly, semiannually or annually).

7. NONDISCRIMINATION ASSURANCE (RC-112, MAY 07)

By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, in connection with this procurement that it will not discriminate on the basis of race, color, creed, national origin, sex, age, disability and sexual preference in the performance of this contract. The offeror is required to insert the substance of this clause in all subcontracts and purchase orders. Failure by the Contractor to carry out these requirements is a material breach of this contract, that may result in the termination of this contract or such other remedy as the Authority deems appropriate. The offeror further

agrees by submitting this offer that it will include this certification, without modification, in all subcontracts and purchase orders.

8. DISCLOSURES OF INTERESTS OF WMATA BOARD MEMBERS (RC-117, May 2013)

For purposes of this disclosure, terms in bold are defined by the Code of Ethics for Members of the WMATA Board of Directors a copy of which is available at www.wmata.com. Financial interest includes ownership interests and prospective and actual income. Firm includes parents, subsidiaries and affiliates.

By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that to the best of its knowledge, information and belief in connection with this procurement:

- (a) No WMATA **Board Member, Household Member or Business Associate** has a financial interest in this firm, in a **Financial Transaction** with the Authority to which this firm is a party or prospective party, or in an **Actual or Prospective Business Relationship with the Authority** to which this firm is a party.
- (b) The following WMATA **Board Member(s), Household Member(s) or Business Associate(s)** has a financial interest in this firm, in a **Financial Transaction** with the Authority to which this firm is a party or prospective party, or in an **Actual or Prospective Business Relationship with the Authority** to which this firm is a party, Include in Nature of Interest below a description of the financial interest and (1) for ownership interests, the value of the interest, the name and address of the firm in which the interest is held, and the total equity or equivalent interest of the firm; and (2) for income, the amount of all income received by the **Board Member, Household Member or Business Associate** in the current and preceding fiscal year for services provided, and the name and address of the firm from which the income was received.

Name of Board Member Household Member or Business Associate	Nature of Interest
_____	_____
_____	_____
_____	_____

- (c) The certification required by subparagraphs (a) and (b) above shall be included in all subcontracts. The prime contractor shall furnish copies of certifications to the contracting officer and retain a copy for inspection upon the contracting officer's request.

SIGNATURE BLOCK FOR ALL REPRESENTATIONS AND CERTIFICATIONS

Name of Offeror: _____

Name and Title of Authorized Representative: _____

Print and Sign Name

Title _____ Date

PRE-AWARD EVALUATION DATA
PROJECT DESCRIPTION:

1. Name of Firm: _____

2. Address: _____

3. Individual Partnership Corporation Joint Venture
4. Date Organized _____.
State in which incorporated _____.
5. Names and Addresses of Officers or Partners:
 - a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____
 - f. _____
6. How long has your firm been in business under its present name? _____
7. Attach as SCHEDULE ONE a list of current contracts, which demonstrates your proficiency, each with contract amount, name of contracting party, type of work and percentage of completion.
8. Attached as SCHEDULE TWO a list of similar contracts, each with contract amount, name of contracting party, and character or type of work for similar contract completed in the last two (2) years.
9. In the last two (2) years, have you ever been denied an award where you were low bidder/offer? If the answer is YES, attach as SCHEDULE THREE the full particulars regarding each occurrence.
10. Have you ever failed to complete any contract, other than current, on which you were the low bidder?

If the answer is YES, attach as SCHEDULE FOUR, the full particulars regarding each occurrence.
11. Financial resources available as working capital for the Contract:
 - a. Cash on hand \$ _____

b. Source of credit: _____

12. Attach as SCHEDULE FIVE financial statements and letters from banks regarding credit as required by the Pre-Award Information article.
13. What percentage of the work (contract amount) do you intend performing with your own personnel? _____ %
14. Attach as SCHEDULE 15a list of all principal subcontractors and the percentage and character of work (contract amount) which each will perform. Principal items of work shall include, but not be limited to, those items listed in the Pre-Award Information article of the Invitation for Bid.
15. If the Contractor or subcontractor is a joint venture, submit PRE-AWARD EVALUATION DATA form for each member of the joint venture.

The information is confidential and will not be divulged to any unauthorized personnel.

The undersigned certifies to the accuracy of all information.

COMPANY: _____

SIGNATURE: _____

TITLE: _____

DATED: _____

LOCATION: _____

TERMS AND CONDITIONS

CHAPTER I

1. AGREEMENT

The Work to be performed under this Contract may briefly be described as the supply of Rail Inventory parts, including all necessary or incidental work, labor and materials. The Contractor agrees to perform the work in accordance with requirements and terms and conditions hereinafter set forth in the Contract Documents. In consideration for the complete, satisfactory and proper performance thereof by the Contractor, the Authority agrees to pay to the Contractor, and the Contractor agrees to accept as full compensation therefor, the sums of money set forth in the Price Schedule at the time and in the manner and upon the terms and conditions set forth in the Contract Documents.

2. ARRANGEMENT OF CONTRACTUAL PROVISIONS

For ease of reference, the provisions of these Contract documents are divided into chapters, articles, paragraphs and subparagraphs. While the Chapters and Articles are titled, it is understood that both the use of such titles and the manner and overall arrangement of the contractual provisions within the Contract Documents are intended solely for the convenience of the parties and are without independent contractual or legal significance.

3. ORDER OF PRECEDENCE

- (a) Any inconsistency in the Contract Documents shall be resolved by giving precedence in the following order: The terms and conditions the (a) the specifications or scope of work; (b) drawings, if any; (c) other documents, exhibits, and attachments generated by the Authority as part of the Contract Documents; (d) the technical proposal, if any, and other submissions of the Contractor generated as part of the Contract documents. In the event of a conflict within or between provisions entitled to equal precedence pursuant to the foregoing, the more stringent requirement shall apply.
- (b) Notwithstanding paragraph (a), in the event that this Contract is funded in whole or part through funding provided by the federal government, all contract terms mandated for inclusion by the federal government shall be deemed to supersede any other conflicting or inconsistent provision of the Contract documents.

4. REQUIREMENTS CONTRACT

NOT APPLICABLE

5. AUDIT, AVAILABILITY, AND INSPECTION OF RECORDS

- (a) Authorized persons. The Contracting Officer and his or her representatives, including representatives of the Authority's governing jurisdictions and any other federal, state, or local entity providing funding for this Contract and the Comptroller General of the United States, shall have access and inspection rights described in this Article
- (b) Examination of costs. The Contractor shall maintain, and the Contracting Officer shall have the right to examine and audit, all records sufficient to reflect properly all costs incurred or anticipated to be incurred directly or indirectly in performance of this

Contract. This right of examination shall include inspection at all reasonable times of the Contractor's facilities engaged in performing this Contract.

- (c) Cost or pricing data. If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this Contract, the Contracting Officer shall have the right to examine and audit all of the Contractor's records related to: (1) any bid or proposal for the contract, subcontract, or modification; (2) any clarifications or discussions conducted on the bid or proposal; (3) pricing of the contract, subcontract or modification; or (4) performance of the contract, subcontract or modification.
- (d) Availability. The accounts, records and costs information required to be originated under this Contract, and together with all other accounts, records and cost information related to this Contract, shall be maintained and made available by the Contractor and subcontractor(s):
 - (1) At the office of the Contractor or subcontractor(s) at all reasonable times for inspection, audit, reproduction or such other purposes as may be required by the Contracting Officer or by anyone authorized to have access to the records by the Contracting Officer or pursuant to any other provision of this Contract; and
 - (2) Except to the extent otherwise expressly set forth in this Contract, until three (3) years from the date of final payment under this Contract; except that: (i) If the Contract is completely or partially terminated, for a period of three (3) years from either the date of any resulting final settlement or the date of final payment whichever is later; and (ii) If a pricing adjustment is involved in any dispute or litigation related to this Contract, for a period equal to the later of three (3) years from the date of final payment or one (1) year following the final disposition of the dispute or litigation.
- (e) Subcontracts. The Contractor shall insert a provision containing all the terms of this Article, including this paragraph, in all subcontracts that exceed \$100,000.

6. AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR

Funds are not guaranteed for performance under this Contract beyond the current fiscal year which ends on June 30, 2016. The Authority's obligation for performance of this Contract beyond that date is contingent upon the availability of funds from which payment for Contract purposes can be made. No legal liability on the part of the Authority for any payment may arise for performance under this Contract until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing, by the Contracting Officer. Any option exercised by the Authority that will be performed in whole or in part in a subsequent fiscal year is subject to availability of funds in the subsequent fiscal year and will be governed by the terms of this Article.

7. CONTRACTING OFFICERS TECHNICAL REPRESENTATIVE (COTR)

- (a) The Work will be conducted under the general direction of the Contracting Officer on behalf of the Authority, who may delegate certain responsibilities to a Contracting Officer's Technical Representative (COTR). While the COTR will be thereupon authorized to perform such designated functions, the Authority will not be responsible for actions of the COTR or any other Authority employee or representative that exceeds his or her authority.

The Contractor will be furnished, upon written request, a copy of the delegation, if any, to a COTR for this Contract.

A COTR may take the following actions:

- (1) Act as the principal point of contact with the contractor. Submit a copy of each item of incoming correspondence and a copy of any enclosures shall also be submitted to the Contract Administrator;
- (2) Approve in writing the contractor's progress schedule and submittals when required;
- (3) Inspect the work for compliance with the contract;
- (4) Review and approve invoices and payment estimates. Forward invoices and receipts to accounting. Bring to the attention of the Contracting Officer any significant discrepancies in, or disputes concerning, contractor invoices of payments. In those cases requiring release of final retained percentages of payment, the COTR will make his recommendations in writing to the Contracting Officer;
- (5) Coordinate correspondence with the Contract Administrator if its importance significantly impacts the contractual terms and obligations;
- (6) Evaluate the contractor's technical letters and proposals for the Contracting Officer;
- (7) Advise the Contracting Officer of potential problems that may affect contract performance;
- (8) Advise the Contracting Officer whenever the COTR has reason to believe that the contractual not-to-exceed amount will be exceeded;
- (9) Prepare the Authority estimate for Proposed Contract Modifications. Participate in negotiations of modifications;
- (10) Approve, in writing, the contractor's progress schedule when required.
- (11) Receive from the contractor, monthly, if applicable, DBE status reports and forward them to the Office of Procurement and Materials, DBE Branch;
- (12) Maintain a comprehensive file record of documents and correspondence concerning contract activities and actions;
- (13) Provide the Contract Administrator with a written notification after all supplies/services have been received with a statement that the COTR is not aware of any open issues that would preclude closeout of the contract and that

the contract is ready for closeout. Return the file, containing all records, correspondence, etc., to the Contract Administrator;

- (14) Execute Standard Form 1420, which contains a detailed performance evaluation of the contractor. Note that if, there is one or more categories in which the contractor is deemed unsatisfactory, these evaluations must be provided to the contractor for comment; and
 - (15) Provide the Contract Administrator with a written request (and requisition) to exercise option(s) (if any) a minimum of 90 days prior to the time established in the contract for exercise of the option.
- (b) There are certain actions which are reserved for only the Contracting Officer. They are:
- (1) Approval of contract modification proposals and/or other unilateral actions.
 - (2) Issuance of written orders to stop and/or resume work under Article 10, "Stop Work Orders", of the General Provisions.
 - (3) Negotiation with the Contractor for adjustment of contract price and/or time.
 - (4) The COTR is not authorized to render final decision under the DISPUTES article of the General Provisions.
 - (5) The COTR is not authorized to issue Termination Notices pursuant to the terms of this contract.
- (c) The presence or absence of the COTR or his inspectors shall not relieve the Contractor from any requirements of the contract.

CHAPTER II – TIME/DELAYS/LIQUIDATED DAMAGES

1. PERIOD OF PERFORMANCE

The period of performance for this contract shall be one (1) year base period from the date of the notice of award with four (4) one (1) year options period to be exercised at the sole discretion of the Authority.

2. LIQUIDATED DAMAGES FOR DELAY

NOT APPLICABLE.

3. EXTENSIONS OF TIME/FORCE MAJEURE

- (a) For purposes of this Article, the term “Force Majeure” shall mean an unforeseen event or circumstance, beyond the control of, and not occasioned by the fault or neglect of, the Contractor or the Authority, which event gives rise to a delay in the progress or completion of the work, including, without limitation, acts of God, acts of war or insurrection, unusually severe weather, fires, floods, strikes, freight embargoes or other events or circumstances of like nature.

- (b) Notwithstanding the provisions of the LIQUIDATED DAMAGES article of the Contract, if the Contractor is delayed at any time during the progress of the Work by the neglect or failure of the Authority or by a Force Majeure, then the time for completion and/or affected delivery date(s) shall be extended by the Contracting Officer in the following circumstances:
 - (1) The cause of the delay arises after the award of the Contract and neither was nor could have been anticipated by the Contractor by reasonable investigation before such award;
 - (2) The Contractor demonstrates to the Contracting Officer that the completion of the work and/or affected delivery(s) will be actually and necessarily delayed;
 - (3) The delay cannot be avoided or mitigated by the exercise of all precautions, efforts and measures reasonably available to the Contractor, whether before or after the occurrence of the cause of delay; and
 - (4) The Contractor makes written request and provides other information to the Contracting Officer as described in paragraph (f) below.

- (c) In the event the Contractor is delayed at any time or for any period by two or more of the above-mentioned causes, the Contractor shall not be entitled to a separate extension for each one (1) of the causes but only one (1) period of extension for the cumulative effects of the delay.

- (d) The Contracting Officer may rescind or shorten any extension previously granted, if the Contracting Officer subsequently determines that any information provided by the Contractor in support of a request for an extension of time was erroneous and if accurate information was known, it would have resulted in a denial of the request for an excusable delay. Notwithstanding the foregoing, the Contracting Officer will not

rescind or shorten any extension previously granted if the Contractor acted in reliance upon the granting of such extension and if, in the judgment of the Contracting Officer, such extension was based on information, although later found to have been erroneous, was submitted in good faith by the Contractor.

- (e) The request for an extension of time pursuant to paragraph (a) shall be made within ten (10) days after the Contractor knows or should know any cause for which it may claim an excusable delay. The Contractor shall provide any actual or potential basis for an extension of time, identifying such cause and describing, as fully as then practicable, the nature and projected duration of the delay and its effect on the completion of that part of the Work identified in the request. Within thirty (30) days of its receipt of all such information, the Authority shall advise the Contractor of its decision on such requested extension; Where it is not reasonably practicable for the Authority to render such decision in the thirty (30) day period, it shall, prior to the expiration of such period, advise the Contractor that it will require additional time and the approximate date upon which it expects to render such decision.
- (f) In no event shall a delay in progress or performance of the Work occasioned solely by a force majeure event or the acts or omissions of any party outside the control of the Contractor be the basis for a Termination for Default in no event shall a subcontractor at any tier be deemed a party outside the control of the Contractor for purposes hereof.

4. AUTHORITY DELAY OF WORK

- (a) If the performance of all or any part of the Work is delayed or interrupted in a material manner or extent by an act or omission of the Authority in the administration of this Contract, which act or omission is not expressly or impliedly authorized by this Contract or by applicable provisions of law, an adjustment (excluding profit) shall be made for any increase in the cost of performance of this Contract caused by such delay or interruption and the Contract modified in writing accordingly. Adjustment shall be made also in the delivery or performance dates and any other contractual provision, as to which compliance was materially affected by such delay or interruption. However, no adjustment shall be made under this Article or otherwise under this Contract for any delay or interruption to the extent that performance was or would have been delayed or interrupted by any other cause, including, without limitation: (i) the fault or negligence of the Contractor or any subcontractor; (ii) the fault or negligence of a third party to the Contract; (iii) an act constituting a force majeure event pursuant to the article entitled EXTENSIONS OF TIME/FORCE MAJEURE; or (iv) any other cause for which an adjustment is provided or excluded under any other provision of this Contract or otherwise at law.
- (b) An adjustment pursuant to paragraph (a) shall not be allowed:
 - (1) for any costs incurred more than twenty (20) days before the Contractor notified the Contracting Officer in writing of the applicable act or omission claimed; and
 - (2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the delay or interruption and in no event

later than thirty (30) days after such termination. Such claim shall be accompanied by appropriate documentation, specifically identifying and supporting the nature and extent of the claimed impact upon the cost and/or time required for performance. In any instance in which it is not reasonably practical for the Contractor to fully determine or project such impact within thirty (30) day period, the claim shall be accompanied by such supporting documentation as is then reasonably available to the Contractor as well as a statement of the anticipated time frame in which the Contractor projects expects to provide the additional materials. The Contracting Officer shall maintain the right throughout the process to request the preparation and/or submission of such additional materials as it shall reasonably require in consideration of the claim and shall be under no obligation to conclude its consideration of the claim prior to receipt and review of all relevant materials. Any adjustment to the contract price pursuant to this article must be agreed upon or otherwise determined prior to final payment

5. NOTICE TO THE AUTHORITY OF LABOR DISPUTES

- (a) Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

- (b) The Contractor agrees to insert the substance of this article, including this paragraph (b), in any subcontract hereunder as to which a labor dispute may delay the timely performance of this Contract.

CHAPTER III – ACCEPTANCE/INSPECTIONS/DEFICIENCIES

1. INSPECTION OF SERVICES

- (a) The Contractor shall provide and maintain an inspection system acceptable to the Authority covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Authority during contract performance and in the manner and in accordance with the time periods set forth in the provisions of the AUDIT AND INSPECTION OF RECORDS article of the Contract.
- (b) The Authority has the right to inspect and test all services called for by this Contract, at all times and places reasonably practicable during the term of the Contract. The Authority shall perform inspection and tests in a manner that will not unduly delay the work.
- (c) If the Authority performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without cost, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.
- (d) If any of the services performed do not conform to contract requirements, the Authority may require the Contractor to perform the Services again in conformity with contract requirements, without additional cost. When the defects in performance cannot reasonably be corrected by such further performance, the Authority may:
 - (1) Direct the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and/or
 - (2) Reduce the contract price to reflect the reduced value of the services performed.
- (e) If the Contractor fails to comply with the provisions of paragraph (d), the Authority may:
 - (1) By contract or otherwise, perform the Services and charge to the Contractor any cost thereby incurred by the Authority; and/ or
 - (2) In the event that the Contracting Officer deems such failure to comply a material breach, terminate the Contract for default.
- (f) Nothing contained herein shall be deemed to preclude the Contracting Officer from implementing a price reduction arising from the reduced value to the Authority of Services ultimately corrected in conformity with the contract requirements for the period of their non-conformity.

2. INSPECTION OF SUPPLIES

- (a) The Contractor shall provide and maintain an inspection system acceptable to the Authority covering Supplies under this Contract and shall tender to the Authority for Acceptance only Supplies that have been inspected in accordance with the inspection system and found by the Contractor to be in conformity with contract requirements. As

part of the system, the Contractor shall prepare records evidencing the nature and result of all inspections. These records shall be made available to the Authority during the term of the Contract and thereafter in accordance with the provisions of the AUDIT AND INSPECTION OF RECORDS article of the Contract. The Authority may perform reviews and evaluations as reasonably necessary to ascertain compliance with this Article. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of its obligations under the Contract.

- (b) The Authority has the right to inspect and test all Supplies called for by the Contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Authority shall perform inspections and tests in a manner that will not unduly delay the work. The Authority assumes no contractual obligation to perform any inspection and/or test nor shall the Authority's failure to perform any inspection or test relieve the Contractor of any obligation under the Contract.
- (c) If the Authority performs inspection(s) or test(s) on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without additional cost, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- (d) When Supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor any additional associated cost. The Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes re-inspection or retest necessary.

3. ACCEPTANCE OF SUPPLIES

- (a) The Authority shall accept or reject tendered Supplies as promptly as practicable after delivery, unless otherwise provided in the Contract. In no event shall a failure of the Authority to inspect and/or accept or reject the Supplies relieve the Contractor from responsibility, nor impose liability upon the Authority, for nonconforming supplies.
- (b) Acceptance by the Authority shall be deemed conclusive, except for latent defects, fraud, and willful misconduct and gross mistakes amounting to fraud or as otherwise provided in the Contract. In such instances, the Authority, in addition to any other rights and remedies provided by law, or under other provisions of this Contract, shall have the right:
 - (1) To direct the Contractor, at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or, if so determined by the Contracting Officer, at the Contractor's facility, and in accordance with a reasonable delivery schedule as may be agreed upon between the parties. The Contracting Officer may effectuate an adjustment reducing the contract price if the Contractor fails to meet such delivery schedule; or
 - (2) Within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, effectuate an appropriate price adjustment, reducing the

contract price, as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the associated costs of transportation.

4. NEW MATERIAL [SUPPLIES]

Unless this Contract specifies otherwise, the Contractor represents that any supplies and components to be provided under this Contract are new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety). If at any time during the performance of this Contract, the Contractor believes that furnishing supplies or components that are not new is in the Authority's best interest, the Contractor shall notify the Contracting Officer immediately in writing. The Contractor's notice shall include the reasons for the request, along with the proposed price reduction, if any, in the event the Contracting Officer agrees to authorize the use of such supplies or components. The Contracting Officer's determination with respect to whether to so authorize the use of such supplies or components shall be final and binding and not subject to further review pursuant to the provisions of the DISPUTES article of the Contract or otherwise.

5. CORRECTION OF DEFICIENCIES & WARRANTY

- (a) Notwithstanding anything to the contrary otherwise set forth in this Contract, all workmanship, parts and materials furnished for all the Work shall be unconditionally warranted against failures or defects for a period of one (1) year after the item supplied is accepted, or placed in service, by the Authority, whichever is earlier. The Contractor shall accept the Authority's records with respect to the date the item was placed in service.
- (b) In the event that any Work covered by the warranty provisions fails during the warranty period, the Contractor shall repair or replace the work within 30 days without cost or expense to the Authority.
- (c) The warranty will not apply to the extent that such failure is caused by user abuse.
- (d) Should the Contractor fail to repair or replace any part or do any work in accordance with the terms of the warranty, or if immediate replacement or work is necessary to maintain operation of the item supplied, the Authority shall have the right to cause such replacement to be made, utilizing its own forces and/or those of third parties as the Authority shall reasonably deem appropriate, such work being at the expense of the Contractor.
- (e) Each piece of equipment, component or part thereof that is replaced, repaired, adjusted or serviced in any manner under the terms of warranty by the Contractor during the warranty period shall be reported to the Contracting Officer on forms supplied by the Authority. Each report shall indicate in detail all repairs, adjustments and servicing to each and every component, unit or parts thereof.

- (f) Any warranty or retrofit work shall be accomplished with minimum disruption to the Authority's operations and its maintenance and service facilities. The Authority shall at its sole discretion determine the availability of facilities for warranty or retrofit work.
- (g) The Contractor shall make available adequate service facilities, including spare parts, for all the items supplied. Trained technical service personnel shall be available to the Authority sufficient to meet its warranty obligations.
 - (1) The Contractor shall provide field service representatives who are competent and fully qualified in the maintenance and operation of the supplied items. These field service representatives shall assist the Authority in overcoming any difficulties in the operation or maintenance of the items supplied. They shall further serve as on-site representatives of the Contractor for any component failure claims or warranty claims against the Contract.
 - (2) During the warranty period, a field service representative shall be available within twenty four (24) hours.
- (h) The rights of the authority set forth in this article shall be in addition to those set forth elsewhere in this Contract or otherwise at law or equity.

6. FIRST ARTICLE INSPECTION

- (a) Parts which are not provided by the OEM or previous supplier will be required to go through an engineering qualification and FAI process. The costs incurred for this process will be the responsibility of the quoting supplier, whether approved or disapproved.
- (b) During the process of a new supplier becoming qualified for a particular part, WMATA reserves the right to purchase from the originally approved supplier or OEM until which time the engineering qualifications and the FAI is completed, as described in the above paragraph.
- (c) If required by the technical specifications, the Contractor shall deliver one (1) unit to the Authority for first article (pre-production sample) tests. The shipping documentation shall contain this contract number and the Lot/Item identification. The Characteristics that the first article must meet and the testing requirements are specified in the technical specifications.
- (d) The notice of conditional approval or approval shall not relieve the Contractor from complying with all requirements of the specifications and all other terms and conditions of this contract. A notice of conditional approval shall state any further action required of the Contractor. A notice of disapproval shall cite the reasons for the disapproval.
- (e) If the first article is disapproved, the Contractor, upon Authority request, shall submit an additional first article for testing. After each request, the Contractor shall make any necessary changes, modifications, or repairs to the first article or select another first article for testing. All costs related to these tests are to be borne by the Contractor. The Contractor shall furnish any additional first article to the Authority under the terms and conditions and within the time specified by the Authority. . The Authority reserves the right to require an equitable adjustment of the contract price for any extension of the delivery schedule or for any additional costs to the Authority related to these tests.

- (f) Unless otherwise provided in the Contract, the Contractor—
 - (1) May deliver the approved first article as a part of the contract quantity, provided it meets all contract requirements for acceptance and was not damaged or impaired in testing; and
 - (2) Shall remove and dispose of any first article from the Authority test facility at the Contractor's expense.

- (g) The Contractor is responsible for providing operating and maintenance instructions, spare parts support, and repair of the first article during any first article test.

The Authority will inspect the first article (pre-production sample) in accordance with the contract requirements. A written report will be forwarded to the Contractor in accordance with (b) above.

7. F.O.B. DESTINATION

- (a) Unless otherwise specified, the Contractor shall furnish all supplies to be delivered under this Contract "f.o.b. destination". As used herein, "f.o.b. destination" means:
 - (1) Free of expense to WMATA on board the carrier's conveyance, at a specified delivery point where the consignee's facility (plant, warehouse, store, lot, or other location to which shipment can be made) is located; and
 - (2) Supplies shall be delivered to the destination consignee's warehouse unloading platform, or receiving dock, at the expense of the Contractor. WMATA shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved before the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of WMATA acting in its contractual capacity. If the Contractor uses a rail carrier or freight forwarder for less than carload shipments, the Contractor shall assure that the carrier will furnish tailgate delivery if transfer to truck is required to complete delivery to consignee.

- (b) The Contractor shall:
 - (1) Pack and mark the shipment to comply with contract specification;
 - (2) In the absence of specifications, prepare the shipment in conformance with carrier requirements;
 - (3) Prepare and distribute commercial bills of lading;
 - (4) Deliver the shipment in good order and condition to the point of delivery specified in the contract;
 - (5) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the Contract;
 - (6) Furnish a delivery schedule and designate the mode of delivering carrier; and
 - (7) Pay and bear all charges to the specified point of delivery.

8. QUALITY ASSURANCE/QUALITY CONTROL

The Contractor shall be responsible for quality assurance and for assuring that the Work conforms to the requirements of the Contract Documents. The Contractor shall maintain an effective and economical quality control program planned and developed in conjunction with other Contractor functions necessary to satisfy the Contract requirements. The quality control program shall establish and implement procedures to ensure that only acceptable Supplies or Services are tendered to the Authority for acceptance, and shall demonstrate both recognition of the quality requirements of the Contract and an organized approach to satisfy these requirements. The program shall ensure that quality requirements are determined and satisfied throughout all phases of Contract performance, including, as applicable, design development, purchasing, fabrication, processing, assembly, inspection, testing, packaging, delivery, storage and systems check and shall provide for the early and prompt detection of actual or potential deficiencies, trends, or conditions which could result in unsatisfactory quality.

CHAPTER IV—CHANGES/ PRICING ADJUSTMENTS

1. CHANGE ORDERS

- (a) The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, direct and implement change orders, within the general scope of this Contract, including but not limited to one or more of the following:
 - (1) Nature and/or extent of services to be performed or supplies to be furnished;
 - (2) Time of performance (i.e., hours of the day, days of the week, etc.); or
 - (3) Place of performance of the services,
- (b) If, in the judgment of the Contracting Officer or as otherwise determined, any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under this Contract, whether or not directly changed by the order, the Contracting Officer shall make an equitable adjustment in the Contract price, the delivery schedule, or both, and shall modify the Contract accordingly.
- (c) In any instance where the Contractor asserts a right to an adjustment in the Contract price or time required for performance as the result of a change directed pursuant to this Article, it must submit a written claim so advising the Authority within thirty (30) days from the date of receipt of the written order directing the change. The claim shall be accompanied by appropriate documentation, specifically identifying and supporting the nature and extent of the claimed impact upon the contract price and/or time required for performance. In any instance in which it is not reasonably practical for the Contractor to fully determine or project such impact within such thirty (30) day period, the claim shall be accompanied by such supporting documentation as is then reasonably available to the Contractor as well as a statement of the anticipated time frame in which the Contractor expects to provide the additional materials. The Contracting Officer shall maintain the right throughout the process to request the preparation and/or submission of such additional materials as he or she shall reasonably require in consideration of the claim and shall be under no obligation to conclude its consideration of the claim prior to receipt and review of all relevant materials. Any adjustment to the contract price pursuant to this Article must be agreed upon or otherwise determined prior to final payment.
- (d) If the Contractor's proposed price adjustment includes the cost of property rendered obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of its disposition.
- (e) Failure to agree to the right of either party to any adjustment in price or time for performance as the result of a change implemented pursuant to this article shall be subject to adjudication in accordance with the Disputes Article of this Contract. Notwithstanding any such disagreement and/or the pendency of any such dispute, the Contractor expressly acknowledges that it shall remain fully obligated to perform the work of the Contract as so changed.

- (f) Notwithstanding any other provision of this Contract, the Contractor shall promptly notify the Contracting Officer of matters, whether implemented as a change order in accordance with this Article or otherwise, which the Contractor believes or asserts may reasonably result in either an increase or decrease in the Contract price or the time required for performance of any part of the work and shall take action with respect thereto as directed by the Contracting Officer. The Contractor's failure to provide such notification shall constitute a waiver of its right to seek an adjustment in the Contract price or time required for such performance.
- (g) Except to the extent, if any, otherwise expressly set forth in this Contract, in no event shall the Contractor be entitled to payment for change orders, additional or extra supplies or services or other modification to any requirement or term of this Contract unless such has been authorized in writing by the Contracting Officer.

2. PRICING OF ADJUSTMENTS

- (a) The parties agree that, notwithstanding any interpretation of contract cost principles to the contrary, the Authority will not be liable for interest, however represented, on or as a part of any claim, request, bid or adjustment, including equitable adjustments, whether said claim, request, bid or adjustment, including equitable adjustments, arises under the Contract or otherwise.
- (b) As part of its bid for any modification to this Contract requiring a price adjustment involving an aggregate increase or decrease in excess of \$100,000 to the Contract price, the Contractor shall submit to the Contracting Officer, either actually or by specific identification in writing, cost or pricing data under the conditions described in this paragraph and certify that, to the best of its knowledge and belief, the cost or pricing data submitted is accurate, complete and current as of the date of the bid. The Contractor, at the discretion of the Contracting Officer, may be required to submit cost or pricing data for price adjustments less than \$100,000.
- (c) The Contractor shall ensure that the substantive terms of this Article are included in all subcontracts at any tier if the value of the subcontracted work exceeds \$100,000.

3. ACCOUNTING AND RECORD KEEPING FOR ADJUSTMENTS

- (a) Applicability. This Article shall apply to any adjustment in the price of this Contract initiated by the Contractor or the Authority
- (b) Forward Priced Adjustments. Unless waived in writing in advance by the Contracting Officer, the Contractor shall furnish to the Contracting Officer a proposed price adjustment in advance of performance of any Work for which a price adjustment is requested. The Contractor shall generate such records as are necessary to substantiate all elements of the proposed adjustment, which records shall be specifically segregated and identified in the Contractor's accounting system as being applicable to the pricing adjustment request.

Post Price Adjustments. This paragraph shall be applicable with respect to price adjustments that either (i) are expected to exceed \$50,000; or (ii) regardless of the value of the adjustment, arise in connection with a Contract with a base sum in excess of

\$1,000,000. In addition to the records required pursuant to paragraph (b) above, in the event pricing of an adjustment under this Contract is not agreed upon between the Contractor and the Contracting Officer prior to the commencement of work for which the pricing adjustment is requested, the Contractor and any subcontractor engaged in work shall maintain accounts and original cost records specifically segregated and identified by job order or other appropriate accounting categories approved by the Contracting Officer of all incurred segregable costs related to the work for which the pricing adjustment is requested. The Contractor shall maintain accounts and records that segregate and account for the costs of all work associated with that part of the project for which the pricing adjustment is requested and shall allocate the costs so accumulated between: (1) work required under the base Contract; (2) work requested to be reimbursed under the pricing adjustment; and (3) work claimed or determined to be related to other actual or proposed adjustments, including but not limited to, changes orders, differing site conditions, and the like. The accounts and records so established shall accumulate such costs under logical costs groups, such as material, labor, equipment, subcontracts, field overhead and the like. The Contractor shall record these costs on a form approved by the Contracting Officer.

- (c) **Access to Records.** As a condition to the Authority's obligation to consider any claim for a potential price adjustment under any provision of this Contract, the Contractor shall grant the Authority access to review and ascertain the validity of the accounting records being maintained for segregation of costs, including base cost records, and to audit any such costs as are deemed appropriate by the Contracting Officer.

- (d) **Limitation on Pricing Adjustment.** In the event the Contractor or any subcontractor fails to generate, maintain, or make available any records required under the Contract, in addition to any and all rights to which the Authority may thereupon be entitled, the Contracting Officer shall determine whether such failure is willful, deliberate or otherwise precipitated by bad faith on the part of the Contractor, in which event the Contractor shall not be entitled to any price adjustment for the work in question. Where the Contracting Officer determines that the failure was not the result of the Contractor's bad faith, the Contractor Officer shall determine the reasonable direct cost of the work for which records are not available, and add a single mark-up for indirect expenses not to exceed ten percent (10%) of the direct costs based on:
 - (1) An audit of any records of the Contractor or subcontractor made available to the Authority; and/or
 - (2) An Authority estimate as adopted or modified by the Contracting Officer.

- (e) In no event shall the Contractor and/or subcontractor be allowed any profit on claimed work for which records are not made available in accordance with its obligations under this Article and otherwise in the Contract.

- (f) **Flow-down clause.** The Contractor shall ensure the inclusion of all the provisions of this Article in all subcontracts issued under this Contract, modified as necessary, for proper identification of the contracting parties and the Contracting Officer.

CHAPTER V – INVOICES/PAYMENTS/ DEDUCTIONS

1. BILLING AND PAYMENT

- (a) The Authority shall pay and the Contractor shall accept the amounts set forth in the Price Schedule as full compensation for all costs and expenses of completing the work in accordance with the Contract, including, but not limited to, all labor and material required to be furnished under this Contract; all overhead, expenses, fees and profits including the cost of providing storage or facilities; all risks and obligations set forth in the Contract; any applicable fees or taxes; and all expenses due to any unforeseen difficulty encountered in the prosecution of the work.
- (b) Payments will be made following acceptance of the services or supplies to be provided under this Contract and after receipt and approval of a properly completed invoice. WMATA will accept the submittal of invoices in one of the following methods:
- (1) Email: Invoices may be submitted through email at: apinvoice@wmata.com. Please submit one invoice and supporting documentation per PDF attachment. You may submit more than one PDF attachment per email.
 - (2) Fax: Invoices may be submitted via the following number: 1-866-534-9063. Please submit one invoice and all supporting documentation for this invoice per fax.
 - (3) Regular Mail: Invoices may be submitted via U.S. Postal Service to the following address:

WMATA-Accounts Payable
PO Box 1910
Beltsville, MD 20704-1910
- Note: This address is only for vendor invoices. Correspondence should not be sent to this address.
- (c) Invoices shall contain the vendor name, a unique invoice number for each shipment or service, invoice date, payment terms, total invoice amount, "remit to" address, Purchase Order Number, freight terms, description of each item being invoiced, quantity, unit item cost, extended cost by item, total freight/handling costs, contact name and email address. Final invoices must clearly be marked "FINAL" and cite the amount of the contract, amount previously paid, and the balance due totals.
- (d) The Authority shall remit payment, generally within thirty (30) days of its receipt of an invoice satisfying the requirements of paragraphs (b) and (c), at the prices stated in the Contract for supplies services accepted, less any applicable deductions.

2. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA – MODIFICATIONS

With respect to any Contract modification, change order, that involves aggregate increases and/or decreases in costs plus applicable profit in excess of \$100,000. In the event that the Contracting Officer ultimately determines that any price, including profit or fee, previously negotiated in connection with any such modification was based upon cost or pricing data furnished by the Contractor (including any prospective or actual subcontractor at any tier) that

was not complete, accurate or current, such that the amount paid to the Contractor for such price adjustment was greater than that the amount that the Contractor would have been entitled based upon the submission of accurate and complete data, the Authority shall be entitled to an adjustment in an amount equal to such overpayment. The right granted the Authority hereunder shall be in addition to any other or additional rights it may have under this Contract or otherwise.

3. SUBCONTRACTOR PAYMENTS

- (a) The Contractor shall, under this Contract, establish procedures to ensure timely payment of amounts due pursuant to the terms of its subcontracts. The Contractor shall pay each subcontractor for satisfactory performance of its contract, or any billable portion thereof, no later than ten (10) days from the date of the Contractor's receipt of payment from the Authority for work by that subcontractor. The Contractor shall also release, within ten (10) days of satisfactory completion of all work required by the subcontractor, any retention withheld from the subcontractor.
- (b) The Contractor shall certify on each payment request to the Authority that payment has been or will be made to all subcontractors in accordance with paragraph (a) above for payments by the Authority to the Contractor. The Contractor shall notify the Contracting Officer or other delegated Authority representative with each payment request, of any situation in which scheduled subcontractor payments have not been made.
- (c) In the event of a claim by any subcontractor that the Contractor has failed to comply with the terms of this Article, the Contractor agrees to fully cooperate in any Authority investigation, and, if deemed appropriate by the Authority, to implement appropriate remedial measures to ensure future compliance.
- (d) The Contractor agrees that the Authority may provide information that the Contracting Officer deems appropriate in response to inquiries from subcontractors seeking to determine the status of Authority payments to the Contractor.
- (e) Nothing contained in this Article or elsewhere in this Contract is intended nor be deemed to create a contractual relationship between the Authority and any subcontractor to make the subcontractor an intended beneficiary of this Contract or to alter or affect traditional concepts of privity of contract.

4. GARNISHMENT OF PAYMENTS

Payment under this Contract shall be subject to any garnishment, attachment orders, and or levies issued pursuant to the laws of the United States, Maryland, Virginia, and the District of Columbia.

CHAPTER VI – CONTRACT TERMINATION/STOP WORK ORDERS/DISPUTES

1. STOP WORK ORDERS

- (a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part of the work for a period of up to ninety (90) days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a STOP WORK ORDER (“SWO”) issued under this Article. Upon receipt of the SWO, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the SWO during the period of work stoppage. Within a period of ninety (90) days after an SWO is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either:
 - (1) Cancel the SWO; or
 - (2) Terminate the work covered by the SWO as provided in the TERMINATION FOR DEFAULT or TERMINATION FOR CONVENIENCE articles of this Contract, as appropriate.
- (b) If a SWO is cancelled or its initial period or any extension thereof expires, the Contractor shall resume work. An equitable adjustment shall be made in the delivery schedule or Contract price, or both, and the Contract modified in writing accordingly, if, in the judgment of the Contracting Officer or as otherwise determined:
 - (1) The SWO results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Contract; and
 - (2) The Contractor submits a written claim for such adjustment within thirty (30) days after the end of the period of work stoppage; provided that, at the sole discretion of the Contracting Officer, the Authority may elect to consider and act upon any such claim submitted at any time before final payment under this Contract.
- (c) If an SWO is not cancelled and the work covered by the Contract is terminated for the convenience of the Authority, the Contracting Officer shall allow reasonable costs, if any, resulting from the SWO in arriving at the termination settlement pursuant to the provisions of the TERMINATION FOR CONVEINENCE article of this Contract.
- (d) If an SWO is not cancelled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order; except that, if the Contracting Officer determines that the SWO was precipitated by, or arose from, a material breach of any term or condition of this Contract on the part of the Contractor, such costs shall not be allowed and the rights and obligations of the parties shall be subject in all respects to the Termination for Default article of this Contract.

2. TERMINATION FOR DEFAULT

- (a) The Contractor shall be in default if it commits a breach of any of its obligations under the Contract deemed material by the Contracting Officer. Without limiting the generality of the foregoing and in addition to those instances specifically referred to in the Contract, the Contractor shall be in default in the following circumstances:
 - (i) It fails to begin, or abandons, the work of the Contract in accordance with the contractual requirements;
 - (ii) It fails to deliver the supplies or perform the services within the time specified in the Contract or any extension approved by the Contracting Officer;
 - (iii) It fails to progress the work in a manner deemed unreasonable or unnecessary by the Contracting Officer so as to endanger performance of the Contract; or
 - (iv) In the view of the Contracting Officer, the Contractor is willfully violating any of the provisions or obligations of the Contract is not executing such provisions or obligations reasonably and in good faith.

- (b) In the event of a material breach by the Contractor pursuant to paragraph (a), the Contracting Officer is authorized to direct a written notice to the Contractor, specifying the nature of the breach and providing that, if the Contractor fails to cure such failure(s) within ten (10) days (or such additional time as authorized by the Contracting Officer), the Authority shall terminate the Contract, in whole or designated part, for default in accordance with the provisions hereof (a "Notice to Cure"). Should the Contractor fail to cure the breach to the satisfaction of the Contracting Officer within the ten day period, or such additional period as may be designated in the Notice to Cure, the Authority may thereupon, immediately upon conclusion of such period or at any reasonable time thereafter, terminate the Contract, in whole or part, by written notice to the Contractor.

- (c) Upon receipt of a Notice of Default, the Contractor shall immediately cease performance of the work so terminated. The Authority shall thereupon have the right to take any action necessary to complete the work, including performing the Work itself, or contracting with another party to do so. In the event the work is completed directly by the Authority or by a third party, the Contractor shall be liable for the additional costs and expenses necessary to complete the work, including, without limitation, labor, materials, plant, tools, equipment, supplies and property. The costs and expenses so charged may be deducted by the Authority and paid out of any monies otherwise payable to the Contractor. Nothing contained herein shall be deemed to relieve the Contractor of its continuing obligation to perform any portion of the Work of the Contract that has not been terminated.

- (d) The Authority may, in its sole discretion, waive a default by the Contractor, but such waiver and/or failure by the Authority to take action in respect to any default shall not be deemed a waiver of any subsequent default.

- (e) Upon any termination for default, the Authority may require the Contractor to transfer title and deliver to the Authority, as directed by the Contracting Officer of (1) any completed supplies, and (2) partially completed supplies, components (including data and intellectual property) and contract rights that the Contractor has specifically produced or acquired for the terminated portion of this Contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Authority has an interest.
- (f) Upon any termination for default, the Authority shall pay for accepted supplies, as well as actions reasonably taken by the Contractor at the direction of the Contracting Officer for the protection and preservation of property. . The Authority may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Authority against loss because of outstanding or claimed liens, or other pending or anticipated claims under the Contract.
- (g) If, at any time following the Authority's issuance of a termination for default hereunder, it is determined that the Contractor was not in default or that the default was excusable, the termination shall be deemed a termination for convenience and the rights and obligations of the parties shall be determined in accordance with the provisions of the TERMINATION FOR CONVENIENCE article of the Contract.
- (h) Any dispute or failure of the parties to agree with respect to any issue arising under this Article shall be subject to review and adjudication in accordance with the provisions of the DISPUTES article of the Contract. In no event shall the Authority's issuance of a Notice to Cure pursuant to paragraph (b) be the basis of a Dispute pursuant to the provisions of the disputes article or be otherwise subject to further review under this Contract or otherwise. Nor shall the pendency of any Dispute constitute a basis for the delay or suspension of, or otherwise affect, the right of the Authority to proceed in accordance with the provisions of this Article, including without limitation its right to complete the work or the obligation of the Contractor to complete any portion of the Work that has not .been terminated.
- (i) The rights and remedies of the Authority in this Article are in addition to any other rights and remedies provided by law or under this Contract.

3. TERMINATION FOR CONVENIENCE

- (a) The Authority may terminate performance of Work under this Contract in whole, or in part, if the Contracting Officer determines that a termination is in the Authority's interest. The Contracting Officer shall terminate by delivering to the Contractor. A Notice of Termination specifying the extent of termination and the effective date.
- (b) Upon receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall immediately proceed as follows:
 - (1) Stop work as specified in the Notice of Termination;
 - (2) Complete performance of the work not terminated;
 - (3) Place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the remaining portion of the Contract;

- (4) Terminate all subcontracts to the extent that they relate to the work terminated;
- (5) Assign to the Authority, as directed by the Contracting Officer, all right(s), title, and interest of the Contractor under the subcontracts terminated; The Authority shall have the right to settle or pay any termination costs arising out of the subcontracts and have no further liability to the Contractor in connection with the work that was the subject of such subcontracts;
- (6) With approval of the Contracting Officer, settle all outstanding liabilities and pay all settlement costs arising from the termination of subcontracts;
- (7) As directed by the Contracting Officer, transfer title and deliver to the Authority:
 - (1) Parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and
 - (2) (ii) The completed or partially completed plans, drawings, information and other property that, would have been required to be furnished to the Authority if the Contract was completed.
- (8) Take any action that may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this Contract that is in the possession of the Contractor and in which the Authority has or may acquire an interest;
- (9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in paragraph (b)(7); provided, however, that the Contractor (a) is not required to extend credit to any purchaser and (b) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce payments to be made by the Authority under this Contract, credited to the price or cost of the Work, or paid in any other manner directed by the Contracting Officer.
 - (c) The Contractor shall submit completed termination inventory schedules not later than one hundred twenty (120) days from the effective date of termination, unless such time is extended in writing by the Contracting Officer.
 - (d) As soon as reasonably practicable, and in any event not later than twenty (20) business days following the Authority's issuance of a Notice of Termination pursuant to paragraph (a), the Contractor shall submit a proposal to the Contracting Officer in the form prescribed by the Contracting Officer detailing the costs to which it asserts entitlement pursuant to this Article. If the Contractor fails to submit the proposal within the time prescribed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor as a result of the termination and shall pay the amount determined.

- (e) Following submission of the Contractor's proposal pursuant to paragraph (d), the parties shall seek to agree upon the whole or any part of the amount to be paid or remaining to be paid as a result of the termination. The amount may include a reasonable allowance for profit on work completed. However, in no event shall the total amount to be paid the Contractor pursuant to this Article exceed the total contract price as reduced by (1) payments previously made and (2) the contract price of the remaining work not terminated.

- (f) If the parties fail to agree on the whole amount to be paid because of the termination, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed upon under paragraph (e):
 - (1) The Contract price for completed supplies or services accepted by the Authority (or sold or acquired under paragraph (b)(9)) not previously paid for, adjusted for any saving of freight and other charges.

 - (2) The total of:
 - (i) The costs incurred prior to termination in the performance of the work terminated, including initial costs and preparatory expenses allocable thereto, but excluding any costs attributable to items compensated or to be paid for under sub-paragraph (f)(1);

 - (ii) The cost of settling and paying termination costs under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not excluded in sub-paragraph (f)(2)(i); and

 - (iii) A sum, representing profit on the items described in sub-paragraph (f)(2)(i) determined by the Contracting Officer pursuant to Section 49.202 of the Federal Acquisition Regulation (FAR), in effect on the date of this Contract, to be fair and reasonable; If it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, the Contracting Officer shall allow no profit under this sub-paragraph and shall reduce the settlement to reflect the projected rate of loss.

 - (3) The reasonable indirect costs of settlement of the work terminated, including:
 - (i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals;

 - (ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

 - (iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

- (g) Except for normal spoilage, and except to the extent that the Authority expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f), the fair value, as determined by the

Contracting Officer, of property that is unavailable or damaged so as to become undeliverable to the Authority or to a third party.

- (h) The cost principles and procedures of Part 31 of the FAR, in effect on the date of this Contract, shall govern all costs claimed, agreed to, or determined under this Article.
- (i) The Contractor shall have the right of appeal, under the DISPUTES Article, from any determination made by the Contracting Officer under paragraphs (d) or (f), except that a failure on the part of the Contractor to submit the termination settlement proposal within the time provided in paragraph (d), or timely request an extension thereof, shall constitute a waiver of its right to appeal the determination of the Contracting Officer pursuant to the Disputes article or any otherwise applicable contractual, legal or equitable remedy.
- (j) In determining any sum due the Contractor under this Article, there shall be deducted:
 - (1) All un-liquidated advances or other payments to the Contractor under the terminated portion of the Contract;
 - (2) The value, as determined or reasonably projected by the Contracting Officer, of any claim which the Authority has against the Contractor under this Contract, including any third-party claim as to which the Contracting Officer is not satisfied that sufficient insurance coverage is in place; and
 - (3) The agreed price for, or the proceeds of sale of, materials, supplies, or other items procured by the Contractor or sold under the provisions of this Article and not recovered by or credited to the Authority.
- (k) If the termination is partial and the Contractor asserts that the partial termination has rendered enforcement at the remaining Contract price inequitable, the Contractor may file a proposal with the Contracting Officer for an adjustment of the price(s) of the continued portion of the Contract. Such proposal shall be submitted within ninety (90) days from the effective date of termination, unless extended in writing by the Contracting Officer, and shall be accompanied by appropriate supporting documentation.
- (l) The Contractor's responsibilities and obligations under this Article shall apply and remain in full force and effect notwithstanding the pendency of any dispute or other delay relating to determination of the appropriate price adjustment or any other issue arising from the termination for convenience.
- (m) Unless otherwise provided in this Contract or by statute, the Contractor and all subcontractors whose work is encompassed in the termination settlement shall maintain all records and documents relating to the terminated portion of this Contract for three (3) years after final settlement. This includes all books and other evidence bearing on the costs and expenses of the Contractor under this Contract. The Contractor shall make these records and documents available to the Authority, its governing jurisdictions and any other federal, state, or local entities providing funding for this Contract, and to the Comptroller General of the United States, or the agents or

representatives of any of them, at the Contractor's office, at all reasonable times, without any direct charge.

4. ASSIGNMENT

- (a) Except as otherwise provided in this provision, the Contractor shall not transfer any of its rights and obligations under this Contract to third parties without the prior consent of the Authority. The Authority may recognize a third party as successor in interest to the Contract in the event of a transfer of all or substantially all of the assets of the Contractor, a Division of the Contractor involved in the performance of the Contract, or a Parent company providing a performance guarantee under this Contract, (i.e., sales of assets, transfer of assets pursuant to merger or consolidation, or incorporation of a proprietorship or partnership). Recognition of the transfer shall be within the discretion of the Contracting Officer after review of the facts and circumstances surrounding each request. At the discretion of the Contracting Officer, he or she may conduct an evaluation of the successor party's capability to perform the Contract in the same manner and to the same extent that Contracting Officer was empowered to conduct a responsibility determination as part of the original solicitation for this Contract. Should the Contracting Officer, for any reason, not recognize such a successor in interest, it may terminate this Contract.
- (b) Any attempt to transfer by assignment not authorized by the Contracting Officer hereunder shall constitute a material breach of the Contract on the part of the Contractor and the Authority may thereupon terminate the Contract in accordance with the TERMINATION FOR DEFAULT articles set forth in the Contract.
- (c) Nothing contained herein shall be deemed to preclude the Contractor's assignment of claims for monies due or to be become due the Contractor under this Contract to a bank, trust company or other financing institution, including any Federal lending agency, upon written notice of such assignment to the Authority.

5. DISPUTES

- (a) Except as otherwise provided in this Contract, any dispute concerning a question of fact arising under or related to this Contract that is not disposed of by agreement, shall be decided by the Contracting Officer, who shall reduce his/her decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within thirty (30) calendar days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written notice of appeal addressed to the Authority's Board of Directors. Such notice must indicate that an appeal is intended and reference the decision and contract number. The decision of the Board of Directors or its duly authorized representative for the determination of such appeals shall be final and conclusive unless in proceedings initiated by either party for review of such decision in a court of competent jurisdiction, the court determines the decision to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence. In connection with any appeal proceeding under this Article, the Contractor, or the Authority, as the case may be, shall be afforded an opportunity to be heard and offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Contracting Officer's

decision. The Armed Services Board of Contract Appeals is the authorized representative of the Board of Directors for final decisions on an appeal.

- (b) This DISPUTES Article does not preclude consideration of questions of law in connection with decisions provided for in paragraph (a) above. Nothing in the Contract, however, shall be construed as making final the decisions of the Board of Directors or its representative on a question of law.

CHAPTER VII – INDEMNIFICATION/INSURANCE/RISK OF LOSS

1. INDEMNIFICATION

- (a) The Contractor shall indemnify, defend and hold harmless the Authority, its directors, officers, employees and agents, from all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including reasonable attorney's fees), of whatsoever kind and nature for injury, including personal injury or death of any person or persons, and for loss or damage to any property, including the property of the Contractor and the Authority, occurring in connection with, or in any way arising out of the use, occupancy and performance of the Work and/or any acts, known or unknown, in connection with activities to be performed under this contract, *unless* the loss or damage is due to the sole negligence of the Authority. Nothing in the preceding sentence shall be deemed to relieve the Contractor from ultimate liability for any obligation under this Contract.
- (b) The Contractor shall indemnify, defend and hold harmless the Authority its directors, officers, employees and agents against any and all claims, liabilities, losses, demands, damages, penalties, costs, charges, remedial costs, environmental claims, fees or other expenses including attorneys' fees, related to, arising from or attributable to any effluent or other hazardous waste, residue, contaminated soil or other similar material discharged from, removed from, or introduced on, about or under the job site, unless the loss or damage is due to the sole negligence of the Authority.
- (c) If any action or proceeding relating to the indemnification required is brought against the Authority, then upon written notice from the Authority to the Contractor, the Contractor shall, at the Contractor's expense, resist or defend such action or proceeding by counsel approved by the Authority in writing, such approval not to be unreasonably withheld, but no approval of counsel shall be required where the cause of action is resisted or defended by counsel of any insurance carrier obligated to resist or defend the same. The Authority reserves the right to use its own counsel, at the Authority's sole cost and expense without waiving or impairing the Contractor's right to indemnification hereunder.
- (d) The Contractor understands and agrees that it is Contractor's responsibility to provide indemnification to the Authority pursuant to this Article. The provision of insurance, while anticipated to provide a funding source for this indemnification, is independent of this indemnification obligation and the failure of Contractor's insurance to fully fund any indemnification shall not relieve the Contractor of any obligation assumed under this indemnification.

2. INSURANCE REQUIREMENTS

1. General Insurance Requirements

Contractor shall procure, at its sole cost and expense the insurance outlined in this Section as follows:

- 1) Contractor is required to maintain the insurance coverage(s) outlined in this Section over the period of performance of this contract.
- 2) Upon written request from WMATA, contractor shall provide copies of any and all policy(s), including all endorsement(s), within 5 business days of such request.
- 3) Insurance Policies must have an A. M. Best rating of at least A- VII.

Workers' Compensation/Employer's Liability

Required Minimum Limits of Coverage:

Workers' Compensation	Statutory	
Employers' Liability	\$500,000	Each Accident
	\$500,000	Disease Policy Limit
	\$500,000	Disease Each Employee

Commercial General Liability

Required Minimum Limits of Coverage:

\$1,000,000	Each Occurrence Limit
\$1,000,000	General Aggregate Limit
\$1,000,000	Products and Completed Operations Limit

Required Minimum Coverage(s):

- 1) Policy shall be endorsed to add WMATA as an Additional Insured and the Additional Insured Endorsement shall be submitted to WMATA.
- 2) Policy shall be endorsed with a Waiver of Subrogation Endorsement.
- 3) The Additional Insured Endorsement shall include Products and Completed Operations Coverage.

Business Auto Liability

Required Minimum Limits of Coverage:

\$1,000,000	Combined Single Limit
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Required Minimum Coverage(s):

- 1) Policy shall be endorsed with Additional Insured Endorsement.
- 2) Policy shall be endorsed with a Waiver of Subrogation Endorsement.

Certificate of Insurance (COI)

Contractor shall provide WMATA an ACORD Certificate of Insurance (COI) as evidence that the insurance requirements of this Section have been satisfied. Certificates of Insurance shall be emailed to COI@WMATA.COM.

The Certificate Holder box should read:

Washington Metropolitan Area Transit Authority
Office of Insurance, Room 8F
600 Fifth Street, NW
Washington, DC 20001

Additionally;

- 1) Satisfactory COI delineating all required insurance coverage requirements under this Section shall be delivered before the execution of this Contract by WMATA.
- 2) COI shall state the PO# and the name of your WMATA Procurement contact.
- 3) The ACORD COI shall specifically delineate the following:
 - a. WMATA as an Additional Insured under the policies delineated in this Section.
 - b. That each additional insured(s) as required under this Section is an additional insured on a primary and non-contributory basis.

That the issuing insurance company will email written notice of cancellation of any of the required insurance policies to WMATA within 30 days of Cancellation. Such notice shall be sent to: COI@wmata.com.

3. TITLE AND RISK OF LOSS

- (a) Unless this Contract specifically provides for earlier passage of title to deliverables (including documents, reports, and data) or other items resulting from this Contract, title shall pass to the Authority upon Acceptance, regardless of when or where the Authority takes physical possession. Risk of loss, theft, destruction of, or damage to, such deliverables or other items remains with the Contractor until the transfer of title or at the time in which the Authority takes physical possession, whichever is later.
- (b) In the event of loss or damage to any deliverable or other item of Work prior to the time when the Authority takes physical possession, the Contractor agrees to repair or replace the loss or damage as soon as reasonably practicable so as to restore the item to the same character and condition as pre-existed the loss or damage and in accordance with all requirements of the Contract Documents without cost to the Authority; Nothing contained herein shall be deemed to require repair or replacement by the Contractor of any loss or damage occasioned solely by the willful or negligent act(s) of the Authority.

CHAPTER VIII – INTELLECTUAL PROPERTY RIGHTS

1. PATENT INDEMNITY

The Contractor shall indemnify the Authority and its officers, agents and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property under this Contract. This indemnity shall not apply unless the Contractor is informed as soon as practicable by the Authority of the suit or action alleging such infringement, and is given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply to:

- (1) An infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner or performance of the Contract not normally used by the Contractor;
- (2) An infringement resulting from addition to, or change in, such supplies or components furnished or construction work performed that was made subsequent to delivery or performance by the Contractor; or
- (3) A claimed infringement which is unreasonably settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

2. WITHHOLDING /SET-OFF

The Authority shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the Authority's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the Authority with regard to this Contract, any other Contract with the Authority, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the Authority for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The Authority shall exercise its set-off rights in accordance with normal practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the Authority, its representatives, or the Federal Government.

3. RIGHTS IN TECHNICAL DATA- GENERAL

NOT APPLICALE

4. RIGHTS IN TECHNICAL DATA – UNLIMITED

- a. The term technical data as used in this article means technical writing, computer software, sound recordings, pictorial reproductions, drawings, or other graphic representations and works of a technical nature, whether or not copyrighted, which are specified to be delivered pursuant to this Contract. The term does not include financial reports, cost analyses, and other information incidental to Contract administration.

Computer software as used in this article means computer programs, computer data bases, and documentation thereof.

- b. The Authority or any third party designated by the Authority to assist it in the administration of this Contract or the inspection or verification of the product produced under this Contract, shall have the right to use, duplicate or disclose technical data, which includes computer software, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so:
- (1) Any manuals, instructional materials prepared for installation, operation, maintenance or training purposes;
 - (2) Technical data pertaining to end items, components or processes which were prepared for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data; e.g., specification control drawings, catalog sheets, outline drawing; except for the computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithm, processes, formulae, and flow charts of the software);
 - (3) Other technical data that has been, or is normally furnished without restriction by the Contractor or subcontractor;
 - (4) Other specifically described technical data which the parties have agreed will be furnished without restriction;
 - (5) All computer software regardless of whether it is technical data as defined in this Article, including the source code, algorithm, process, formulae, and flow charts, that are developed or materially modified by the Contractor for the Authority or for which the Authority is required by federal law or regulation to provide a royalty-free, irrevocable and nonexclusive license to the federal government.
- (c) The Authority shall have the right to use, duplicate, or disclose technical data other than that defined in paragraph a. in whole or in part, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data, be
- (1) Released or disclosed in whole or in part outside the Authority,
 - (2) Used in whole or in part by the Authority for manufacture, or
 - (3) Used by a party other than the Authority except for: (i) emergency repair or overhaul, (ii) where the item or process concerned is not otherwise reasonably available to the Authority to enable timely performance of the work, or (iii) administration of this Contract or the inspection or verification of the product produced under this Contract where the third party has a written contract with the Authority to perform these efforts. In all cases described in this subsection, the release or disclosure outside of the Authority shall be subject to a written prohibition against further use, release or disclosure by the party receiving the technical data.

- (d) Technical data provided in accordance with the provisions of paragraph c. shall be identified by a legend that suitably recites the aforesaid limitation. Nothing herein shall impair the right of the Authority to use similar or identical data acquired from other sources.
- (e) Where any item is purchased as a separate line item in the contract, that purchase includes all integral parts of that item, including any computer software, source codes, algorithms, processes, formulae, and flow charts. As such, the Authority has full rights to use, duplicate or disclose any or all parts of the item, including computer software, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so. Should disclosure of the computer software be required only under this paragraph, then the Contracting Officer may waive the provisions of this paragraph if he or she certifies in writing that the item is commercially available from multiple sources and the product from any of those sources will be fully compatible with existing Authority property.
- (f) Material covered by copyright:
 - (1) The Contractor agrees to and does hereby grant to the Authority, and to its officers, agents and employees acting within the scope of their official duties, a royalty-free, nonexclusive and irrevocable license throughout the world for Authority purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all (i) technical data and (ii) computer software covered by subsection (b) (5) now or hereafter covered by copyright.
 - (2) No such copyrighted matter shall be included in (i) technical data or (ii) computer software covered by subsection (b) (5) furnished hereunder without the written permission of the copyright owner for the Authority to use such copyrighted matter in the manner above described.
 - (3) The Contractor shall report to the Authority (or higher-tier contractor) promptly and in reasonable written detail each notice or claim of copyright infringement received by the Contractor with respect to any (i) technical data or (ii) computer software covered by subsection (b)(5) provided to the Authority.
- (g) Relation to patents: Nothing contained in this article shall imply a license to the Authority under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Authority under any patent.
- (h) Any dispute under this Article shall be subject to the DISPUTES article of this Contract.
- (i) Notwithstanding any other payment provision in this Contract, the Contracting Officer may retain from payment up to ten (10) percent (%) of the Contract price until final delivery and acceptance of the technical data defined in this Article and as required to be furnished by the bid schedule or the contract specification.

5. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT SUPPLIES

- (a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Contract of which the Contractor has knowledge.

- (b) In the event of any claim or suit against the Authority on account of any alleged patent or copyright infringement arising out of the performance of this Contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Authority, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Authority except where the Contractor has agreed to indemnify the Authority.
- (c) The substance of this Article shall be included in all subcontracts.

CHAPTER IX – ADDITIONAL COVENANTS/LEGAL REQUIREMENTS

1. NONDISCRIMINATION ASSURANCE

- (a) Nondiscrimination Assurance: In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102, section 202 of the American with Disabilities Act of 1990, 42 U.S.C. §12132, and federal transit law at 49 U.S.C. §5332, and D.C law the Contractor, or subcontractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability or sexual preference. In addition, the contractor, sub-recipient, or subcontractor agrees to comply with applicable federal regulations and other implementing regulations that the federal government may issue.

- (b) Equal Employment Opportunity: The following equal employment opportunity requirements apply to this contract.
 - (1) Race, Color, Creed, National Origin, Sex: In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000e, and Federal transit laws at 49 U.S.C. §5332, the Contractor agrees to comply with all applicable equal opportunity requirements of the U. S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, " 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Contract. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, national origin, sex or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements the Federal Government may issue.

 - (2) Age: In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §623 and federal transit law at 49 U.S.C. §5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements that the federal government may issue.

 - (3) Disabilities: In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, the Contractor agrees that it will comply with the requirements of U. S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees

to comply with any implementing requirements that the federal government may issue.

- (c) The Contractor also agrees to include all of these requirements in each subcontract financed in whole or in part with Federal assistance provided by the federal government, modified only if necessary to identify the affected parties.
- (d) Failure by the contractor, or subcontractor 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 Authority deems appropriate.

2. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT-OVERTIME COMPENSATION

This Contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

- (a) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, apprentices, trainees, watchmen, and guards shall require or permit any laborer, mechanic, apprentice, trainee, watchman, or guard in any workweek in which he or she is employed to work in excess of 40 hours in such work week on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer, mechanic, apprentice, trainee, watchman, or guard receives compensation at a rate not less than one (1) and one-half (1/2) times his or her basic rate of pay for all such hours worked in excess of 40 hours in such work week.
- (b) Violation. Liability for Unpaid Wages - Liquidated damages. In the event of any violation of the provisions of paragraph (a) the Contractor and any subcontractor responsible therefore shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the Authority for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, apprentice, trainee, watchman or guard employed in violation of the provisions of paragraph (a) in the sum of \$10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of his or her standard work week of forty (40) hours without payment of the overtime wages required by paragraph (a).
- (c) Withholding for unpaid wages and liquidated damages. The Contracting Officer may withhold from the Contractor, from any monies payable on account of work performed by the Contractor or subcontractor, such sums as may be administratively determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).
- (d) Subcontracts. The Contractor shall insert paragraphs (a) through (d) of this Article in all subcontracts and shall require their inclusion in all subcontracts of any tier.
- (e) Records. The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for three (3) years from the completion of this Contract.

3. WALSH-HEALEY PUBLIC CONTRACTS ACT

If this Contract is for the manufacture or furnishing of materials, supplies, or equipment in an amount which exceeds or may exceed \$10,000 and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), the following terms and conditions apply:

- (a) All stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may be hereafter, be in effect.
- (b) All employees whose work relates to this Contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and handicapped worker may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (41 U.S.C. 40).

4. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

NOT APPLICABLE

5. CONVICT LABOR

- (a) Except as provided in paragraph (b), the Contractor shall not employ in the performance of this Contract any person undergoing a sentence of imprisonment imposed by any court of the federal government, a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam or the U.S. Virgin Islands.
- (b) The Contractor is not prohibited from employing persons:
 - (1) On parole or probation to work at paid employment during the term of their sentence;
 - (2) Who have been pardoned or who have served their terms; or
 - (3) Confined for violation of the laws of the states, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if—
 - (i) The worker is paid or is in an approved work or training program on a voluntary basis;
 - (ii) Representatives of local union central bodies or similar labor union organizations have been consulted;
 - (iii) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts or services;

- (iv) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and
- (v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

6. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Authority shall have the right to terminate this Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee if no fraud is reasonably suspected.

7. SEAT BELT USE POLICY

The Contractor agrees to comply with terms of Executive Order No. 13043 "Increasing Seat Belt Use in the United States" and is encouraged to include those requirements in each subcontract awarded for work relating to this contract.

8. SENSITIVE SECURITY INFORMATION

The Contractor must protect, and take measures to assure that its subcontractors at each tier protect, "sensitive information" made available during the course of administering an Authority contract or subcontract in accordance with 49 U.S.C. Section 40119(b) and implementing DOT regulations, "Protection of Sensitive Security Information," 49 CFR Part 15, and with 49 U.S.C. Section 114(s) and implementing Department of Homeland Security regulations, "Protection of Sensitive Security Information," 49 CFR Part 1520.

9. LAWS AND REGULATIONS

The Contractor shall be responsible to fully inform itself of the requirements for and to comply with any applicable State of Maryland, Commonwealth of Virginia, District of Columbia, Federal and local laws and regulations governing the service to be provided under the contract. Further, the Contractor shall be responsible to obtain, at its own cost and expense, any and all licenses/permits required to transact business in any political jurisdictions to be serviced.

10. HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA

- (a) The Contractor agrees to submit a Material Safety Data Sheet (Department of Labor Form OSHA-20), as prescribed in Federal Standard No. 313B, for all hazardous material five days before delivery of the material, whether or not listed in Appendix A

of the Standard. This obligation applies to all materials delivered under this Contract which involve exposure to hazardous materials or items containing these materials.

- (b) "Hazardous material," as used in this Article, is as defined in Federal Standard No. 313B, in effect on the date of this contract.
- (c) Neither the requirements of this Article nor any act or failure to act by the Authority shall relieve the Contractor of any responsibility or liability for the safety of Authority, Contractor, or subcontractor personnel or property.
- (d) Nothing contained in this Article shall relieve the Contractor from complying with applicable Federal, state, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.
- (e) The Authority's rights in data furnished under this Contract with respect to hazardous material are as follows:
 - (1) To use, duplicate and disclose any data to which this Article is applicable. The purposes of this right are to (i) apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous material (ii) obtain medical treatment for those affected by the material; and (iii) have others use, duplicate, and disclose the data for the Authority for these purposes.
 - (2) To use, duplicate, and disclose data furnished under this Article, in accordance with subparagraph (e)(1) above, in precedence over any other provision 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 Article applies -

"This is furnished under Authority Contract No.CQ15126 and shall not be used, duplicated, or disclosed for any acquisition or manufacturing purpose without the permission of the Contracting Officer. This legend shall be marked on any reproduction of this data."
(End of legend)
 - (5) That the Contractor shall not place the above legend or any other restrictive legend on any data that (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 Article entitled Rights in Technical Data.
- (f) The Contractor shall insert this Article, 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.

11. LIVING WAGE

The Authority's Living Wage Policy and implementing regulations apply with respect to all contracts for services (including construction) awarded in an amount that exceeds \$100,000 in a twelve (12) month period. To the extent this Contract meets those criteria, the following requirements are applicable:

- (a) The Authority's Living Wage Rate is \$13.48 per hour, and may be reduced by the contractor's per-employee cost for health insurance.
- (b) The Contractor shall:
 - (1) Pay the Authority's Living Wage Rate, effective during the time the work is performed, to all employees who perform work under this Contract;
 - (2) Include the Living Wage provision in all subcontracts that exceed \$15,000 in a twelve (12) month period awarded under this Contract;
 - (3) Maintain payroll records, in accordance with the retention and examination of records requirements in the Contract, and shall include a similar provision in affected subcontracts that requires the subcontractor to maintain its payroll records for the same length of time; and
 - (4) Certify with each monthly invoice that the Authority Living Wage Rate was paid to affected employees, or if applicable, certify prior to contract award or contract extension, if any, that one or more of the exemptions in paragraph (d) below applies.
- (c) The Contractor shall not split or subdivide a contract, pay an employee through a third party, or treat an employee as a subcontractor or independent contractor to avoid compliance with the Living Wage provisions.
- (d) Exemptions to the Living Wage provisions include:
 - (1) Contracts and agreements subject to higher wage rates required federal law or collective bargaining agreements;
 - (2) Contracts or agreements for regulated utilities;
 - (3) Emergency services to prevent or respond to a disaster or imminent threat to public health and safety;
 - (4) Contractor employees who work less than full-time; and
 - (5) Contractors who employ fewer than ten (10) employees.
- (e) The Authority may adjust the Living Wage Rate effective in January of each year. The adjustment will reflect the average Living Wage Rate among Metro's Compact Jurisdictions with Living Wage provisions. If after contract award the living wage rate increases, the Contractor is entitled to an equitable adjustment to the contract price in the amount of the increase for employees who are affected by the escalated wage.
- (f) Failure to comply with the Authority's Living Wage provisions shall result in the Authority's right to exercise available contract remedies, including contract termination.

12. METRIC SYSTEM

To the extent the federal government directs, the Contractor agrees to use the metric system of measurement in its project activities, in accordance with the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. 205a et seq; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. 205a note; and applicable U.S. DOT or FTA regulations in accordance with applicable federal directives. As practicable and feasible, the Contractor agrees to supply products and services with dimensions expressed in the metric system of measurement. Metric usage shall not be required to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms.

13. WHISTLEBLOWER PROTECTION

- (a) The Contractor and its subcontractors shall encourage employees and independent contractors to report information—without fear of actual or threatened discrimination, retaliation or reprisal—that they in good faith reasonably believe is evidence of gross mismanagement; gross misuse or waste of public resources or funds; fraud; violation of law; abuse of authority in connection with the conduct of WMATA operations or contracts; or a substantial and specific danger to health, security or safety. The Contractor and its subcontractors shall notify their employees that they may make reports under this paragraph to:
- (1) WMATA's Office of Inspector General (OIG), in person, in writing, through the OIG Hotline (888-234-2374) or email wmata-oig-hotline@verizon.net or by any other reasonable means;
 - (2) WMATA's Metro Transit Policy Department (MTPD), in person, by telephone (202-962-2121) or by any other reasonable means, or to the OIG, if the information constitutes a potential violation of criminal law;
 - (3) WMATA's Chief Safety Officer, in person, in writing, through the SAFE Hotline (202-249-7233) or email safety@wmata.com, or by any other reasonable means; or
 - (4) Any other official, office or agency within WMATA or outside WMATA that the employee or independent contractor reasonably believes has the authority to act on the matter.
- (b) The Contractor, its employees, independent contractors and subcontractors shall cooperate with any inquiry or review by an authorized official of WMATA, or by the federal government or any other governmental entity with jurisdiction over WMATA, regarding a matter that would constitute a report under paragraph (a) or a violation of this or any whistleblower provision of this Contract, and with any enforcement or judicial proceeding arising from such inquiry or review.
- (c) The Contractor and its subcontractors shall not interfere with or deny the right of any employee or independent contractor of either the Contractor or any of its subcontractors to make a report under paragraph (a). The Contractor and its subcontractors shall not recommend, take or threaten to take any action having a negative or adverse impact on any employee or independent contractor of either the Contractor or any of its subcontractors because he or she:

- (1) made or is perceived to have made a report under paragraph (a);
 - (2) sought a remedy under applicable law after making a report under paragraph (a);
 - (3) participated in or cooperated with an inquiry or review by an authorized official of WMATA, or by the federal government or any other governmental entity with jurisdiction over WMATA, 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 Article, including this paragraph (d), in its subcontracts at all tiers.
- (e) The Contractor and its subcontractors shall comply with the National Transit Systems Security Act (NTSSA), which prohibits discharging, demoting, suspending, reprimanding or in any other way discriminating against an employee as a reprisal for the employee lawfully and in good faith—
- (1) reporting a hazardous safety or security condition;
 - (2) refusing to work when a hazardous safety or security condition presents an imminent danger of death or serious injury, there is no reasonable alternative to refusal, there is not sufficient time to eliminate the danger in absence of refusal and the individual, where possible, has notified the Contractor or subcontractor of the condition and of the intent to not perform work;
 - (3) refusing to authorize the use of any safety or security related equipment, track or structures, if the individual is responsible for their inspection or repair and reasonably believes they are in a hazardous safety or security condition, there is no reasonable alternative to refusal, there is not sufficient time to eliminate the danger in absence of refusal and the individual, where possible, has notified the Contractor or subcontractor of the condition and of the intent not to authorize use of hazardous equipment or infrastructure unless corrected;
 - (4) providing information for or directly assisting in an investigation of conduct that the individual reasonably believes to be in violation of federal law regarding safety, security or fraud, waste or abuse of funds intended for safety or security;
 - (5) refusing to violate or assist in violation of federal public transportation safety or security law;
 - (6) cooperating with a safety or security investigation by the U.S. Secretary of Transportation, U.S. Secretary of Homeland Security or the National Transportation Safety Board;

- (7) furnishing information to law enforcement agencies relating to an accident or incident resulting in damage to property, injury or death; or
- (8) filing a complaint under the NTSSA or testifying regarding such complaint.

- (f) The Contractor shall notify the Authority of any instance, related to this Contract, of a report under sub-paragraph (e)(1) or refusal under sub-paragraphs (e)(2), (3) or (5).
- (g) The enforcement, filing and investigation of complaints, and remedies under this section shall be governed by the NTSSA, applicable federal regulations and federal law.
- (h) This Article shall be interpreted in accordance with the NTSSA. If any provision is found to be in conflict with the NTSSA, the NTSSA shall govern.
- (i) The Contractor shall include, or shall cause to be included, the substance of this Article, including this paragraph, in its subcontracts at all tiers.

14. 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).

15. EMPLOYMENT RESTRICTION WARRANTY

- (a) The Contractor warrants that it will not offer employment to, solicit or discuss the interest of prospective employment of, or otherwise engage in substantive employment-related discussions or communications with, any present or former officer or employee of the Authority who has been involved, directly or indirectly, in any matter of financial interest to the Contractor until at least one (1) year after the officer or employee has ceased involvement in or responsibility for the matter. Nor shall the Contractor knowingly engage in communications of the nature described above with any immediate family member or member of the household of any Authority employee during the period in which such employee is involved in any such matter of financial interest to the Contractor.

- (a) If a waiver is granted, or if a former employee of the Authority is eventually hired, the Contractor shall ensure that the former employee is not involved in negotiating or otherwise dealing with the Authority on any particular matter over which such employee had responsibility during his or her period of employment at Authority.

16. GRATUITIES

- (a) In connection with performance of work required under this Contract, or any changes or modifications relative thereto, the giving of or offering to give gratuities (in the form of entertainment, gifts or otherwise) by the Contractor, or any agent, representative or other person deemed to be acting on behalf of the Contractor, or any supplier or subcontractor furnishing material to or performing work under this Contract, or any agent, representative or other person deemed to be acting on behalf of such supplier

or subcontractor, to any Director, Officer or employee of the Authority; or to any Director, Officer, employee or agent of any of the Authority's agents, consultants, representatives or other persons deemed to be acting for or on behalf of the Authority with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract is expressly forbidden. The terms of this GRATUITIES Article shall be strictly construed and enforced in the event of violations hereof.

- (b) Reported instances of the giving or offering to give gratuities within the context of this GRATUITIES Article will be investigated by the Board of Directors or its duly authorized representative. A preliminary investigation will be made to determine whether there is probable cause to suspect that a violation of this Article has been committed. If such probable cause is found to exist, the Board of Directors, or its duly authorized representative, shall formally notify the Office of Inspector General (OIG), the Department of Transportation Office of Inspector General (DOT OIG) and the federal, state and/or local law enforcement authorities.
- (c) The rights and remedies of the Authority provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

17. OFFICIALS NOT TO BENEFIT

- (a) No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this Contract, or to any benefit that may arise there from; but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.
- (b) No member, officer or employee of the Authority or of a local public body during his or her tenure or one (1) year thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.
- (c) Enforcement of this Article shall be consistent with 18 U.S.C. §431.

18. ORGANIZATIONAL CONFLICT OF INTEREST

- (a) An organizational conflict of interest (OCI) exists when the nature of the work to be performed under a proposed contract or subcontract may, without some restriction on future activities (1) result in an unfair competitive advantage to the contractor or subcontractor; or (2) impair the contractor's objectivity in performing the contracted work. Most typically this would arise when a contractor prepares a design or specification for work that is to be procured competitively. It may also arise when a contractor or one of its affiliates would have an economic interest in the outcome of a contract or project. Conflicts of interest may be either real or apparent.
- (b) In the event that the Contractor believes that it or any of its potential subcontractors may have an organizational conflict of interest, it shall notify the Contracting Officer, in writing, within five (5) work days after it becomes aware of the potential or actual organizational conflict of interest. The written notification shall identify the nature and circumstances of the perceived conflict and propose appropriate measures to eliminate or mitigate the OCI. The Contracting Officer will review the circumstances

and the proposed mitigation and notify the Contractor accordingly, determining that: (1) no mitigation is required; (2) the conflict cannot be mitigated; or (3) the conflict can be mitigated and he or she accepts the proposed measures, or recommends other and/or additional measures.

- (c) The failure of the Contractor to identify such perceived conflicts may result in the contract award being rescinded or the Contract terminated for default.
- (d) Should the Contractor identify or become aware of a conflict during the term of this Contract, including any extension of the Contract, that it could not reasonably have anticipated prior to award, it shall notify the Contracting Officer in accordance with paragraph (b) above, or request an exception to the restriction with supporting rationale. The Contracting Officer shall consider the Contractor's proposed measures to mitigate or eliminate the conflict, or the request for an exception.
- (e) If the proposed measures are not determined to be feasible or are otherwise not acceptable to the Contracting Officer, the Contracting Officer may terminate the Contract.
- (f) If the request for an exception is not granted by the Contracting Officer, and the Contract is not terminated, the Contractor shall be notified in writing and be given ten (10) days from the date of the written notification to take all necessary action to comply with the requirements of this article.
- (g) If the proposed measures are determined acceptable to the Contracting Officer, the Contracting Officer may grant a specific exception to this restriction, when in the Contracting Officer's judgment, the exception will not create a conflict between the Contractor's duties and obligations under this Contract and the duties and obligations imposed on the Contractor under the contractual or other relationship for which an exception is requested.

(1) The Contractor, in performing this Contract, shall avoid any conduct which might result in or give the appearance of creating for Directors, Officers, or employees of the Authority in their relationship with the Contractor, any conflicts of interest or favoritism and/or the appearance thereof and shall avoid any conduct that might result in a Director, Officer, or employee failing to adhere to the Standards of Conduct adopted by the Authority's Board of Directors.

(2) Any determination by the Contracting Officer under this Article shall be final and shall be considered a question of fact within the meaning of the Disputes Article of this Contract.

19. CONTRACTOR PERSONNEL

- (a) The Authority may direct the replacement of employees of the Contractor reasonably deemed to be unsuitable by the Contracting Officer, or whose continued participation in the Work is deemed contrary to the best interests of the Work. Except in circumstances deemed exigent by the Contracting Officer, the reason for replacement will be discussed between the Contractor and the Authority before a replacement directive is issued. Upon receipt of a written replacement directive from the Authority specifying the date by which the replacement must occur, the Contractor shall proceed

with the replacement and shall do so in a manner that minimizes to the greatest extent practicable any impact upon any aspect of the Work.

- (b) Contractor personnel required to work on WMATA property must obtain a WMATA vendors' badge and successfully complete the mandatory safety training which must be renewed yearly. Affected personnel should be advised by the Contractor that, to obtain a vendor's badge, a signed waiver to perform a background check is required.

20. FALSE STATEMENTS, CLAIMS OR SUBMISSIONS

- (a) The Contractor acknowledges its responsibility to undertaken its obligations under this publicly-funded contract with full integrity and, to that end, to take all reasonable steps to ensure that statements, claims and submissions made pursuant to the Contract are provided in good faith and with a reasonable belief as to their truthfulness, accuracy and completeness.
- (b) Where the Authority believes that there exist reasonable grounds to conclude that the Contractor has submitted false claims, statements or submissions it shall notify the Office of Inspector General (OIG), the Department of Transportation Office of Inspector General (DOT-OIG) and/or federal, state and/or local law enforcement authorities.
- (c) The rights of the Authority set forth in this Article are in addition to any such additional contractual, legal or equitable rights which may arise upon the Contractor's submission of a knowingly false claim or statement, including without limitation the Authority's right to terminate the Contract for default. Nor shall the provisions of this Article serve in any respect to limit, waive or modify any liability, civil or criminal, of the Contractor or any of its officers, agents or employees which such conduct may precipitate.

CHAPTER X – MISCELLANEOUS ADDITIONAL PROVISIONS

1. FEDERAL, STATE, AND LOCAL TAXES

- (a) Except as may be otherwise provided in this Contract, the Contract price shall be deemed to include all applicable federal, state and local taxes and duties.
- (b) Notwithstanding paragraph (a), with respect to any federal excise tax or duty on the transactions or property covered by this Contract, if a statute, court decision, written ruling or regulation takes effect after the Contract date, and:
 - (1) Results in the Contractor being required to pay or bear the burden of any such Federal excise tax or duty or increase in the rate thereof that would not otherwise have been payable on such transactions or property, the Contract price shall be increased by the amount of such tax or duty or rate increase, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the Contract price as a contingency reserve or otherwise; or
 - (2) Results in the Contractor not being required to pay or bear the burden of, or in his obtaining a refund or drawback of, any such Federal excise tax or duty that would otherwise have been payable on such transactions or property or that was the basis of an increase in the Contract price, the Contract price shall be decreased by the amount of the relief, refund, or drawback, or that amount shall be paid to the Authority, as directed by the Contracting Officer. The Contract price shall be similarly decreased if the Contractor, through its fault or negligence or its failure to follow instructions of the Contracting Officer, is required to pay or bear the burden of, or does not obtain a refund or drawback of, any such federal excise tax or duty.
- (c) Paragraph (b) above shall not be applicable to social security taxes or to any other employment tax.
- (d) No adjustment of less than two hundred fifty dollars (\$250) shall be made in the Contract price pursuant to paragraph (b).
- (e) As used in paragraph (b) , the term “Contract date” means the date the Contract was executed by the Authority. As to additional supplies or services procured by modification to this Contract, the term “Contract date” means the effective date of such modification.
- (f) The Contractor shall promptly notify the Contracting Officer of matters that may result in either an increase or decrease in the Contract price under this Article and shall take action with respect thereto as directed by the Contracting Officer.

2. FEDERAL/LOCAL/STATE SALES TAX

The Solicitation Instructions giving rise to award of this Contract advised of the nature and extent of the Authority’s exemption from federal, state, District of Columbia, municipal and local taxation and, by submission of its Bid, the Contractor certified that none of the taxes as to which the Authority is exempt were included in its bid price(s) or the final Contract Price. In the event that the Authority learns that, notwithstanding this certification, any taxes to which

the Authority is exempt are included in the final Contract Price, the Authority shall be entitled to a reduction in the Contract price reflecting such amount and a refund of monies paid related to such taxes, plus applicable interest.

3. PUBLIC COMMUNICATION

The Contractor shall not issue communications to the media, place advertisements, nor publicize through any means the services or goods they are providing WMATA under this Contract without prior written consent of the Contracting Officer. The Contractor shall not publish, in print or online, any communications products such as newsletters, press releases, blogs or other communications to WMATA employees without prior written consent of the Contracting Officer. Approval of any such requests shall be at the sole discretion of WMATA.

4. CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE

- (a) This Contract shall be deemed to be executed in the District of Columbia, regardless of the domicile of the Contractor and shall be governed by and construed in accordance with the laws of the District of Columbia except to the extent, if any, superseded by federal law.
- (b) The parties agree that any and all claims asserted by or against the Authority arising hereunder or related hereto shall be heard and determined either in the courts of the United States located in the District of Columbia, the state of Maryland or the Commonwealth of Virginia or in the courts of the District of Columbia, state of Maryland or Commonwealth of Virginia that maintain jurisdiction over such claims and in which venue properly resides.

5. SEVERABILITY

If the Contract contains any unlawful provisions, the same shall be deemed of no effect, and shall upon the application of either party be stricken from the Contract without affecting the binding force of the Contract as it shall remain after omitting such provision.

6. SURVIVAL

In addition to any provision expressly set forth as surviving the expiration or termination of this Contract, any provision of this Contract whose purpose would be defeated or rendered meaningless by the expiration or earlier termination hereof shall be deemed to survive any such expiration or termination.

7. ALL NECESSARY PROVISIONS DEEMED INCLUDED

It is the intent of the parties that each and every provision of law required to be inserted in this Contract should be and is inserted herein. Every such provision is to be deemed to be inserted herein, and if any such provision is not inserted or is not inserted in correct form, then this Contract shall be deemed amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party hereunder.

CHAPTER XI-WMATA POLICIES

1. SAFETY REQUIREMENTS

- (a) The Contractor shall be responsible for ensuring compliance with the most stringent provisions of the applicable statutes and regulations of the District of Columbia, state of Maryland, Commonwealth of Virginia or political subdivision in which the work is being performed, as well as the METRO Construction Safety Methods Manual (1984 et. seq.) issued by the Authority, and the Department of Labor OSHA standards pertaining to the safe performance of the work. In the absence of a specific Construction Industry Standard, the Contractor would be required to comply with either an established OSHA General Industry Standard, National Institute for Occupational Safety and Health (NIOSH) guidelines, American Conference of Governmental Industrial Hygienists (ACGIH) guidelines, American National Standards Institute (ANSI) guidelines, the WMATA System Safety Program Plan, the WMATA Construction Safety Methods Manual, or the Metrorail Safety Rules and Procedures Handbook. For contracts in which work is performed on, or interfaces with the Metrorail System, the Contractor shall also comply with the publication entitled "Metrorail Safety Rules and Procedures Handbook". Further, the Contractor shall ensure that all methods of performing the work do not involve danger to the personnel employed thereon, the public and private property, whether or not these methods are cited or indicated in the Contract documents. Should charges of violation of any of the above be issued to the Contractor in the course of the work, a copy of each charge shall be immediately forwarded to the Contracting Officer and any other required Authority representative.
- (b) The Contractor shall employ and assign full time to the work a Safety Superintendent. The Safety Superintendent shall have specialized training and experience in construction safety supervision and have a working knowledge of all OSHA regulations. He or she shall have the ability to develop and conduct safety training courses. He or she shall be familiar with industrial hygiene equipment and testing as required for the protection of all employees. The Safety Superintendent shall be employed exclusively for the purpose of supervising the safety of persons on or about the work and the property affected thereby. The Safety Superintendent shall also be responsible for providing first aid at the site and must have a current Red Cross First Aid Certificate. If, at any time, the work site is without the services of an approved Safety Superintendent for a period of fifteen (15) calendar days or more, the work may be closed down at the discretion of the Contracting Officer. The Safety Superintendent must be acceptable to the Contracting Officer and his performance will be reviewed by the Contracting Officer on a continuing basis. If the Safety Superintendent's effectiveness is below standard, the Contractor shall provide immediate replacement at the Contracting Officer's direction. Once employed, the Safety Superintendent shall not be changed without permission of the Contracting Officer.
- (c) The contractor shall provide, at the site of the work, a first aid kit which shall be fully equipped to meet the needs of the anticipated work force.
- (d) The contractor shall follow all appropriate RAIL Operational Rules, OAPs, standard operating procedures (SOP) and General and Special Orders while on the operational railroad and all Start-Up Rules and Manager's Notices when in a declared start-up area.

2. PRE-EMPLOYMENT CRIMINAL BACKGROUND CHECK REQUIREMENT

Pursuant to Metro Policy Instruction 6.10/5, WMATA requires that all contractor employees and candidates for employment undergo and pass criminal background screenings before being eligible to work on WMATA property and facilities. Contractor employees and candidates who pass the background screenings are eligible to enter WMATA property once WMATA issues them a contractor badge. Contractor employees and candidates who do not authorize background screenings or whose background screenings are unsatisfactory will not be granted contractor badges or access to WMATA property. Successful background checks are valid for one year from the date of inquiry.

3. WORKPLACE VIOLENCE/ZERO TOLERANCE

Pursuant to Metro Policy/Instruction 7.8.3, WMATA's Chief Procurement Officer is responsible for ensuring that all Metro contracts contain provisions that: (1) establish zero tolerance for acts and Workplace Violence for the employees of contractors and subcontractors at any tier, and (2) Provide that contractors and subcontractors will not retaliate against any of their employees or independent contractors for cooperating with investigations.



MID-ATLANTIC PURCHASING TEAM RIDER CLAUSE

OF CONTRACT(S) BY MEMBERS COMPRISING Mid –Atlantic Purchasing Team COMMITTEE

Extension to Other Jurisdictions

The [issuing jurisdiction] extends the resultant contract (s), including pricing, terms and conditions to the members of the Mid-Atlantic Purchasing Team, as well as all other public entities under the jurisdiction of the United States and its territories.

Inclusion of Governmental & Nonprofit Participants (Optional Clause)

This shall include but not be limited to private schools, Parochial schools, non-public schools such as charter schools, special districts, intermediate units, non-profit agencies providing services on behalf of government, and/or state, community and/or private colleges/universities that required these good, commodities and/or services.

Notification and Reporting

The Contractor agrees to notify the issuing jurisdiction of those entities that wish to use any contract resulting from this solicitation and will also provide usage information, which may be requested. The Contractor will provide the copy of the solicitation and resultant contract documents to any requesting jurisdiction or entity.

Contract Agreement

Any jurisdiction or entity using the resultant contract (s) may enter into its own contract with the successful Contractor (s). There shall be no obligation on the party of any participating jurisdiction to use the resultant contract (s). Contracts entered into with a participating jurisdiction may contain general terms and conditions unique to that jurisdiction Including, by way of illustration and not limitation, clauses covering minority participation, non-discrimination, indemnification, naming the jurisdiction as an additional insured under any required Comprehensive General Liability policies, and venue.

Mid-Atlantic Purchasing Team:

- | | | |
|---|--|---|
| <input type="checkbox"/> Alexandria Public Schools | <input type="checkbox"/> Frederick, Maryland | <input type="checkbox"/> Northern Virginia Community College |
| <input type="checkbox"/> Alexandria Sanitation Authority | <input type="checkbox"/> Frederick County, Maryland | <input type="checkbox"/> Prince George's Community College |
| <input type="checkbox"/> Arlington County, Virginia | <input type="checkbox"/> Gaithersburg, Maryland | <input type="checkbox"/> Prince George's County, Maryland |
| <input type="checkbox"/> Arlington County Public Schools | <input type="checkbox"/> Greenbelt, Maryland | <input type="checkbox"/> Prince George's Public Schools |
| <input type="checkbox"/> Bladensburg, Maryland | <input type="checkbox"/> Herndon, Virginia | <input type="checkbox"/> Prince William County, Virginia |
| <input type="checkbox"/> Bowie, Maryland | <input type="checkbox"/> Leesburg, Virginia | <input type="checkbox"/> Prince William County Public Schools |
| <input type="checkbox"/> BRPC | <input type="checkbox"/> Loudoun County, Virginia | <input type="checkbox"/> Prince William County Service Authority |
| <input type="checkbox"/> Charles County Public Schools | <input type="checkbox"/> Loudoun County Public Schools | <input type="checkbox"/> Rockville, Maryland |
| <input type="checkbox"/> City of Fredericksburg | <input type="checkbox"/> Loudoun County Water Authority | <input type="checkbox"/> Spotsylvania County |
| <input type="checkbox"/> College Park, Maryland | <input type="checkbox"/> Manassas, Virginia | <input type="checkbox"/> Spotsylvania County Government & Schools |
| <input type="checkbox"/> District of Columbia Government | <input type="checkbox"/> City of Manassas Public Schools | <input type="checkbox"/> Stafford County, Virginia |
| <input type="checkbox"/> District of Columbia Public Schools | <input type="checkbox"/> Manassas Park, Virginia | <input type="checkbox"/> Takoma Park, Maryland |
| <input type="checkbox"/> District of Columbia Water & Sewer Auth. | <input type="checkbox"/> Maryland-National Capital Park & Planning Comm. | <input type="checkbox"/> Upper Occoquan Service Authority |
| <input type="checkbox"/> Fairfax, Virginia | <input type="checkbox"/> Maryland Department of Transportation | <input type="checkbox"/> Vienna, Virginia |
| <input type="checkbox"/> Fairfax County, Virginia | <input type="checkbox"/> Metropolitan Washington Airports Authority | <input type="checkbox"/> Washington Metropolitan Area Transit Authority |
| <input type="checkbox"/> Fairfax County Water Authority | <input type="checkbox"/> Metropolitan Washington Council of Governments | <input type="checkbox"/> Washington Suburban Sanitary Commission |
| <input type="checkbox"/> Falls Church, Virginia | <input type="checkbox"/> Montgomery College | <input type="checkbox"/> Winchester, Virginia |
| <input type="checkbox"/> Fauquier County Schools & Government | <input type="checkbox"/> Montgomery County, Maryland | <input type="checkbox"/> Winchester Public Schools |
| | <input type="checkbox"/> Montgomery County Public Schools | |

PART III

ATTACHMENTS

Attachment 1: Scope of Work (SOW)

Attachment 2: Price Schedule Sheet for BASE YEAR 1

Attachment 3: Price Schedule Sheet for OPTION YEARS 1 to 4

**Attachment 4: 113-19 Rev. 0 Supplier Shipping and Delivery
Requirements**

Attachment 5: 113-05 Rev 1. QAAW Receiving Inspections

**Attachment 6: 113-01 Rev 00 WMATA Quality Assurance and
Warranty Procurement**

SMALL BUSINESS LOCAL PREFERENCE PROGRAM (SBLPP)

ATTACHMENT A

***NOTICE OF REQUIREMENTS
FOR
SMALL BUSINESS & LOCAL PREFERENCE PROGRAM (SBLPP)***

May 2015

~Applies only to contracts involving jurisdictional (operating) funds only.

SMALL BUSINESS LOCAL PREFERENCE PROGRAM (SBLPP)

Applicable in contracts involving jurisdictional (operating) funds only.

SMALL BUSINESS AND LOCAL PREFERENCE POLICY

It is the policy of the Authority to provide maximum practicable competition opportunities in its non-federal simplified acquisitions to Small Local Businesses and to encourage participation of such businesses on all other contract actions. The Authority's Contracting Officer or its designated representative shall identify in the solicitation whether the preference is for a "Small Local Business".

DEFINITIONS

To participate in SBLPP a business must be a small business and a local business.

(a) "*Local Business*" means a firm that self-certifies its principle business office is located in the District of Columbia, State of Maryland, or Commonwealth of Virginia.

(b) "*Small Business*" means a firm that is a Local Business and self-certifies that it is a small business, as defined by the U.S. Small Business Administration.

(c) "*Simplified Acquisitions*" Applies to non-federal procurements up to the simplified acquisition threshold of \$150,000.00. The Authority will obtain quotes from a minimum of three Small Local Businesses registered in the Authority's SBLPP Directory and matched with the solicitation requirements. If fewer than three quotes from Small Local Businesses are obtained, the Authority will obtain quotes from Local Businesses in the Authority's vendor database.

(d) "*Contracts Above the Simplified Acquisition Threshold*" Applies to non-federal procurements above the simplified acquisition threshold, participation by Small Local Businesses is encouraged. The procedures used to encourage participation for simplified acquisitions are also applied to these higher value contracts when practicable.

If the Authority's contracting personnel are unable to identify a minimum of three Small Local Businesses or Local Businesses, then the solicitation may be opened to other sources.

CERTIFICATION

(a) The firm must be certified as a SBLPP before the solicitation process. The firm will send its affidavit to the Small Business Coordinator of the WMATA DBE Program Office.

(b) The firm must be certified in Material Category Code (MCC) located on the wmata.com website or the North American Industry Classification System (NAICS) Code(s) located at the www.census.gov website, that is/are the primary activities of the business and ensuring the MCC or NAICS Code(s) have been approved by WMATA Small Business Coordinator.

(c) Certification may be extended due to business necessity, as determined by the Authority, if certification is lost during the period of performance of the contract.

EVALUATION REQUIREMENTS

- (a) When a Small Local Business is competing, contracting personnel shall add a factor of five percent to the quotes or bids received from any firms that are not Small Local Businesses. The five percent factor shall only be added to the quote or bid for evaluation purposes. It shall not be added to the actual price reflected on any purchase order or contract.
- (b) The evaluation of quotes or bids may occur on a line item basis, groups of line items, or for the total value of the procurement, as appropriate by procurement. If individual line items are not easily separable without compromising the integrity of the total requirement or the cost effectiveness of the solicitation, then evaluation should occur for the total value of the procurement.
- (c) If a tie occurs between bids from a Small Local Business and a firm that is not a Small Local Business, the award should be made to the Small Local Business. If a tie occurs between bids from a Local Business and a firm that is not a Local Business, the award should be made to the Local Business.
- (d) Determinations of price fairness and reasonableness will be made inclusive of the five percent factor, if applicable. A procurement action shall not be awarded if the cost to the Authority exceeds the fair market price, and the price cannot be determined to be fair and reasonable.

APPENDIX C

SMALL BUSINESS & LOCAL PREFERENCE PROGRAM (SBLPP)

1. SMALL BUSINESS & LOCAL PREFERENCE PROGRAM (SBLPP) REQUIREMENT:

The requirements of the Authority's SBLPP policy and procedures shall apply to this contract. Accordingly, the Contractor shall carry out the requirements of the Authority's Procurement Procedures Manual and this Appendix in the performance of this non-federally funded contract.

2. POLICY:

The Washington Metropolitan Area Transit (WMATA) Board of Directors approved and adopted Resolution #2005-45 in May 2003 for the implementation of the Small Business and Local Preference Program (SBLPP) and its amended requirements on April 23, 2011. The Board mandated that the program provide small businesses located in the District of Columbia, the State of Maryland, and the Commonwealth of Virginia be given an opportunity to compete for non-federally funded procurement actions. WMATA is committed to ensuring that prime contractors utilize WMATA self-certified businesses in the implementation of procurement opportunities below and above the simplified acquisition threshold. In project activities to be conducted by a prime contractor and subcontractor(s), the Contractor hereby agrees to carry out this policy in the award and administration of subcontracts to the fullest extent possible consistent with efficient Contract performance.

3. CONTRACT GOAL:

- A. If the proposer is not an SBLPP, the proposer agrees that the SBLPP goal for this Contract shall be met by SBLPP subcontractors or by joint ventures with SBLPPs. The goal set forth for this Contract is ____% of the final Contract price, including amendment and modification. The amount of SBLPP participation will be determined by the dollar value of the work performed and/or supplies furnished by SBLPP firms as compared to the total value of all work performed and/or supplies furnished under this Contract. The Contractor shall have met this goal if the Contractor's SBLPP participation meets or exceeds this goal.
- B. In cases where work is added to the Contract by modification such that additional SBLPP participation is necessary to meet this goal, the Contractor shall increase the participation of one or more firms listed on the "Schedule of SBLPP Participation" (Attachment 1) or submit additional SBLPP certified firms to meet the goal. In cases where work is deleted from the Contract, the goal shall be applicable to the new Contract amount. The Contractor shall be permitted to meet the goal by revising its SBLPP participation, provided, however, that the revision shall not result in SBLPP participation that is less than the original goal.

4. DEFINITIONS:

- A. **Appendix C.** The Notice of Requirements for Small Business and Local Preference Program (SBLPP), which when attached to a solicitation, implements the requirements of the Authority's SBLPP policies and procedures in the award and administration of operating funded Authority contracts.
- B. **Certified SBLPP.** Is a for-profit small business concern, whose eligibility is evidenced by a current SBLPP certification letter issued by WMATA's Disadvantaged Business Enterprise Office.

- C. **Contractor.** One who participates, through a contract or subcontract (at any tier), in a jurisdictional (operating) funded requirement.
- D. **Commercially Useful Function (CUF).** An SBLPP performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the SBLPP must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an SBLPP is performing a commercially useful function, the Authority will consider the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing.

- (1) An SBLPP does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of SBLPP participation.
- (2) If an SBLPP does not perform or exercise responsibility for at least 51 percent of the total cost of its contract with its own work force, or if the SBLPP subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work, the Authority will presume that the SBLPP is not performing a commercially useful function.

The following factors will be used by the Authority in determining whether an SBLPP trucking company is performing a commercial useful function:

- (1) The SBLPP must be responsible for the management and supervision of the entire trucking operation for which it is responsible for on a particular contract.
 - (2) The SBLPP must itself own and operate at least one fully licensed, insured and operational truck used on the contract.
 - (3) The SBLPP may lease trucks from another SBLPP firm, including an owner-operator who is certified as an SBLPP.
 - (4) The SBLPP may also lease trucks from a non-SBLPP firm, including an owner-operator. The SBLPP who leases trucks from a non-SBLPP is entitled to credit only for the fee or commission it receives as a result of the lease arrangement.
 - (5) The lease must indicate that the SBLPP has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the terms of the lease with the consent of the SBLPP, so long as the lease gives the SBLPP absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the SBLPP.
- E. **Good Faith Efforts.** Efforts to achieve an SBLPP goal or other requirements of the Authority's SBLPP Program which by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the goal program requirement.
- F. **Joint Venture.** An association of an SBLPP firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the SBLPP is responsible for a distinct, clearly

defined portion of the work of the contract and shares in the capital contribution, control, management, risks, and profits of the joint venture commensurate with its ownership interest.

- G. **Small Business Concern.** With respect to firms seeking to participate as SBLPP's, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration implementing regulations (13 CFR Part 121).
- H. **WMATA.** Washington Metropolitan Area Transit Authority, the transit system (rail and bus) serving the metropolitan Washington area, including parts of Virginia and Maryland.

5. HOW SBLPP PARTICIPATION IS COUNTED TOWARDS THE CONTRACT GOAL:

SBLPP participation shall be counted towards meeting the SBLPP goal in accordance with the following:

- A. When an SBLPP participates in a contract, only the value of the work actually performed by the SBLPP is counted towards the SBLPP goal.
 - (1) This amount includes the entire amount of that portion of a construction contract that is performed by the SBLPP's own forces. This amount includes the cost of supplies and materials obtained by the SBLPP for the work of the contract, including supplies purchased or equipment leased by the SBLPP (except supplies and equipment the SBLPP subcontractor purchases or leases from the prime contractor or its affiliate).
 - (2) This amount includes the entire amount of fees or commissions charged by an SBLPP firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of the contract, towards the SBLPP goal, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
 - (3) When an SBLPP subcontracts part of its work under the contract to another firm, the value of the subcontract work may be counted towards the SBLPP goal only if the SBLPP's subcontractor is itself an SBLPP. Work that an SBLPP subcontracts to a non-SBLPP firm does not count towards the SBLPP goal.
- B. When an SBLPP performs as a participant in a joint venture, the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that an SBLPP performs with its own forces towards the SBLPP goal may be counted.
- C. Expenditures to an SBLPP contractor towards the SBLPP goal may be counted only if the SBLPP is performing a commercially useful function on that contract.
 - (1) An SBLPP performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the SBLPP must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an SBLPP is performing a commercially useful function, the Authority will consider the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the SBLPP credit claimed for its performance of the work, and other relevant factors.

- (2) An SBLPP does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of SBLPP participation.
- (3) If a SBLPP does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or if the SBLPP subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work, the Authority will presume that the SBLPP is not performing a commercially useful function.

The following factors will be used to count expenditures with SBLPPs for materials or supplies:

- (1) If the materials or supplies are obtained from a SBE manufacturer, 100 percent of the cost of the materials or supplies will be counted towards the SBE. A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the contract.
- (2) If the materials or supplies are purchased from an SBE regular dealer, 60 percent of the cost of the materials or supplies will be counted towards the SBE. A regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph if this person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by long-term lease agreement and not on an ad hoc or contract-by-contract basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph.
- (3) With respect to materials or supplies purchased from a non-SBLPP, the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials and supplies required on a job site, may be counted towards the SBLPP, provided the fees are reasonable and are not excessive as compared with fees customarily allowed for similar services. The cost of the materials and supplies themselves may not be counted towards the SBLPP.

6. BIDDER/PROPOSAL REQUIREMENTS (WITH THE BID/PROPOSAL):

The bidder/proposer shall submit the following with its bid/proposal. Any bidder/proposer who fails to complete and return this information with its bid/proposal shall be deemed to be not responsive and may be ineligible for contract award. Bidders/Proposers that fail to meet the SBLPP goal above and fail to demonstrate "good faith efforts" to justify waiver of the SBLPP goal (see paragraph 6.C. below) shall be deemed to be not responsible and will be ineligible for Contract award.

- A. Completed "Schedule of SBLPP Participation" (Attachment 1) sufficient to meet the above

goal. If the bidder/proposer is an SBLPP firm and intends to satisfy the appropriate SBLPP requirement with its own firm, it must indicate in the Schedule the area of work and percentage it will perform to satisfy the goal. All bidders/proposers must attach current WMATA SBLPP certification letters for each SBLPP listed on the Schedule.

- B. Executed “Letters of Intent to Perform as a Subcontractor/Joint Venture” (Attachment 2). If the proposer is not an SBLPP or intends to satisfy the requirements through other SBLPP firms, then it must attach these letters from each certified SBLPP listed on the Schedule.
- C. Justification for grant of relief (Appendix C waiver of SBLPP goal). If in the submittal of its bid/proposal, the bidder/proposer fails to meet the SBLPP goal above, the bidder/proposer has the burden of furnishing sufficient documentation with its bid/proposal of its “good faith efforts” to justify a grant of relief (waiver) from the goal or portion of the goal. Such justification shall be in the form of a detailed report. The following is a list of actions which shall be considered as part of the bidder’s/proposer’s good faith efforts to obtain SBLPP participation. This list is neither a mandatory checklist nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases:
 - (1) Soliciting through all reasonable and available means (e.g. attendance at pre-proposal meetings, advertising and/or written notices) the interest of all certified SBLPPs who have the capability to perform the work of the contract. The bidder/proposer must solicit this interest within sufficient time to allow the SBLPPs to respond to the solicitation. The proposer must determine with certainty if the SBLPPs are interested by taking appropriate steps to follow up initial solicitations.
 - (2) Selecting portions of the work to be performed by SBLPPs in order to increase the likelihood that the SBLPP goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate SBLPP participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
 - (3) Providing interested SBLPPs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 - (4) Negotiating in good faith with interested SBLPPs. It is the bidder’s/proposer’s responsibility to make a portion of the work available to SBLPP subcontractors and suppliers and to select those portions of the work or material needs consistent with the available SBLPP subcontractors and suppliers, so as to facilitate SBLPP participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of SBLPPs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for SBLPPs to perform the work. “SBLPP Unavailability Certifications” (Attachment 3) shall be completed as appropriate.

A bidder/proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including SBLPP subcontractors, and would take a firm’s price and capabilities as well as the contract goal into consideration. However, the fact that there may be some additional costs involved in finding and using SBLPPs is not in itself sufficient reason for a proposer’s failure to meet the contract SBLPP goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does

not relieve the proposer of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from SBLPPs if the price difference is excessive or unreasonable.

- (5) Not rejecting SBLPPs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of proposals in the contractor's efforts to meet the project goal.
- (6) Making efforts to assist interested SBLPPs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- (7) Making efforts to assist interested SBLPPs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- (8) Effectively using the services of available state, and Federal small business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of SBLPPs.

7. PROPOSAL REQUIREMENTS (APPARENT SUCCESSFUL BIDDER/PROPOSER):

The proposer shall submit the following items within ten (10) calendar days after notification that they are the apparent successful proposer:

- A. A copy of a current SBLPP certification letter shall be attached to evidence SBLPP pre-certification. All SBLPP firms must be pre-certified. Participation by a firm that is not currently certified as an SBLPP by the Authority at the time of the due date for offers on a contract, does not count.
- B. SBLPP Manufacturer's Affidavit (Attachment 4), if applicable, must be submitted in order to receive 100 percent of the allowable credit for expenditures to SBLPP manufacturers/suppliers.
- C. SBLPP Information for Determining Joint Venture Eligibility (Attachment 5), if applicable, shall be signed by all parties, dated and notarized.
- D. Copy of Joint Venture Agreement, if applicable. Submittal shall be signed by all parties, dated and notarized.
- E. Certification letter of the SBLPP regular dealer/supplier, if applicable. If the proposer wants to receive the maximum allowable credit of its expenditures for material(s) or supplies required under this Contract, from SBLPP regular dealers/suppliers, the SBLPP must submit a signed and notarized statement on their letterhead, that they are a regular dealer of the material(s) or supplies.
- F. For Design-Build contracts, the proposer shall submit with its initial Price Proposal a list of SBLPP-certified firms that it intends to enter into subcontract agreements with for this Contract. If no goal is specified, the proposer may still utilize SBLPPs in the performance of this Contract, the proposer shall submit with its initial Price Proposal a list of those SBLPP-certified firms. The documentation requirements of the solicitation shall be completed and

submitted at the time set forth for the submittal of Best and Final Offer (BAFO) to the Authority for any Contract in which an SBLPP goal is applicable or for any Contract in which there was no goal established, but the proposer identified SBLPP-certified firms that it intends to enter into subcontract agreements with in its initial Price Proposal. Any proposer who fails to complete and return the following information, if applicable, with their BAFO Price Proposal may be deemed to be not responsible and may be ineligible for contract award. Proposers that fail to meet the SBLPP goal, if any, and fail to demonstrate a good faith effort and to justify waiver of the SBLPP goal may be deemed to be not responsible and may be ineligible for contract award.

8. CONTRACT ADMINISTRATION REQUIREMENTS:

The following requirements apply after contract award:

- A. The Contractor shall include the following provision in the General Provisions of each subcontract it awards:
“The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of WMATA’s Small Business & Local Preference Program in the award and administration of operating funded contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in termination of this contract or such other remedy as the Buyer deems appropriate.”
- B. The Contractor shall report on SBLPP performance on the attached (Attachment 6) which shall be submitted monthly with each payment request. Failure to submit these report(s) may result in suspension of contract payments. The contractor shall certify with each payment request that payment has been or will be made to all subcontractors due payment, within ten (10) days after receipt of payment from the Authority for work by that subcontractor. The Contractor shall inform the COR or COTR, with their payment request, of any situation in which scheduled subcontractor payments have not been made and the reason therefore. The Contractor shall require each subcontractor to complete and forward to the Small Business Coordinator on a monthly basis a “Prompt Payment Report – Subcontractor’s Report (Attachment 7). The subcontractor shall certify that payment has been received.
- C. The Contractor must have the prior written approval of the contracting officer and the DBE office before substitution for an SBLPP subcontractor, regardless of the reason for substitution. Failure to obtain Authority approval could result in the Authority declaring the Contractor ineligible to receive further Authority contracts for three years from the date of the finding.
- D. The contractor shall forward copies of all subcontracts to the SBLPP office at the time of their execution.
- E. If the contracting officer or other delegated authority’s representative determines that the Contractor has failed to comply with this Appendix C, he/she will notify the Contractor of such non-compliance and the action to be taken. The Contractor shall, after receipt of such notice, take corrective action. If the Contractor fails or refuses to comply promptly, the contracting officer or other delegated authority’s representative may issue a “stop work order” stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop work order shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor. When the Authority proceeds with such formal actions, it has the burden of proving that the Contractor has not met the requirements of this Appendix, but the Contractor’s failure to meet its Appendix C goal shall shift to it the

requirement to come forward with evidence to show that it has met the good faith requirements of this Appendix.

- F. The Contractor agrees to cooperate in any studies or surveys as may be conducted by the Authority which are necessary to determine the extent of the Contractor's compliance with this Appendix.
- G. The Contractor shall keep records and documents for two years following performance of this Contract to indicate compliance with this Appendix. These records and documents, or copies thereof, shall be made available at reasonable times and places for inspection by any authorized representative of the Authority and will be submitted upon request together with any other compliance information which such representative may require.
- H. If the Authority, has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements regarding the SBLPP Program, the matter shall be referred to WMATA's DBE office.
- I. Failure by the Contractor to carry out the requirements of this Appendix is a material breach of this Contract, which may result in the termination of this Contract under the Default provision of this Contract or such other remedy as the Authority deems appropriate.

SUMMARY OF SUBMITTALS

With the Proposal

1. Completed "Schedule of SBLPP Participation" (Attachment 1) with current certification letters attached for each listed SBLPP.
2. Executed "Letters of Intent to Perform as a Subcontractor/Joint Venture" (Attachment 2).
3. Justification for grant of relief (waiver of SBLPP goal), if applicable. Include completed "SBLPP Unavailability Certifications" (Attachment 3) as appropriate.

Bidder/Proposal Requirements (Apparent Successful Bidder/Proposer)

1. All SBLPPs must submit a copy of their current SBLPP certification letter issued by WMATA's DBE Office.
2. SBLPP Manufacturer's Affidavit, if applicable, must be submitted in order to receive 100 percent of the allowable credit for expenditures to SBLPP manufacturers/suppliers (Attachment 4).
3. Information for Determining Joint Venture Eligibility, if applicable (Attachment 5, pgs. 1, 2, 3, 4).
4. Copy of Joint Venture Agreement, if applicable.
5. Certification letter of the SBLPP regular dealer/supplier, if applicable.

After Contract Award

1. "Prompt Payment Report-Prime Contractor's Report" Attachment 6) – submitted monthly.
2. "Prompt Payment Report-Subcontractor's Report" (Attachment 7) - submitted monthly.
3. Request to substitute SBLPP contractor – submitted as required.
4. Copies of subcontracts-submitted at the time of their execution.

SUBMIT WITH PROPOSAL
SCHEDULE OF SBLPP PARTICIPATION

Contract No. _____

Project Name _____

Name of Bidder/Proposer

The bidder/proposer shall complete this Schedule by identifying only those SBLPP firms, with scope of work and price, who have agreed to perform work on this Contract. The prices for the work/supplies of these firms shall be at prices amounting to at least the SBLPP percentage goal of the total contract price. The proposer agrees to enter into a formal agreement with the SBLPP firm(s) listed for the work and at, or greater than, the prices listed in this Schedule subject to award of a Contract with the Authority. If the total amount is less than the SBLPP percentage goal, a justification for waiver of SBLPP goal shall be attached to this Schedule.

Name of SBLPP Subcontractor	Address	Type of Work (Electrical, Paving, Etc.) and Contract Items or Parts Thereof to be Performed and Work Hours Involved	Agreed Price
Subtotal \$ SBLPP Subcontractors			
Name of SBLPP Prime Contractor	Address	Type of Work (Electrical, Paving, Etc.) and Contract Items or Parts Thereof to be Performed and Work Hours Involved	Agreed Price
Subtotal \$ SBLPP Prime Contractor			
TOTAL \$ ALL SBLPP CONTRACTORS		TOTAL	

Signature & Title of Contractor Representative

Date

Contract Number: _____

Project Name: _____

**LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR/JOINT VENTURE
(ALL ITEMS MUST BE COMPLETED)**

TO: _____

(Name of Proposer)

The undersigned intends to perform work in connection with the above projects as (check one):

_____ an individual _____ a corporation
_____ a partnership _____ a joint venture

Specify in detail particular work items or parts thereof to be performed:

at the following price: \$ _____

Please indicate _____% of the dollar value of the subcontract that will be awarded to non-SBLPP contractors, if applicable. The undersigned will enter into a formal agreement with you for the above work upon your execution of a contract with the Authority.

Name of SBLPP Subcontractor/Joint Venture

Phone Number

Address

WMATA Vendor ID

Signature & Title

Date

The following is to be completed by the Prime Contractor. A copy of this letter must be returned to the SBLPP subcontractor to indicate acceptance.

To: _____

(Name of SBLPP)

You have projected your interest and intent for such work, and the undersigned is projecting completion of such work as follows:

<u>WORK ITEMS</u>	<u>PROJECTED SBLPP COMMENCEMENT DATE</u>	<u>PROJECTED SBLPP COMPLETION DATE</u>

(Date)

(Name of Prime Contractor &
Acceptance Signature)

SUBMIT WITH PROPOSAL
SBLPP UNAVAILABILITY CERTIFICATION

I, _____, _____, of _____
 (Name) (Title) (Proposer)

certify that on _____ I contacted the following SBLPP contractor to obtain a proposal for work
 (Date)
 items to be performed on Contract Number _____.

SBLPP Contractor	Work Items Sought	Form of Proposal Sought (i.e., Unit Price, Materials and Labor Only, Etc.

To the best of my knowledge and belief, said SBLPP contractors were unavailable (exclusive of unavailability due to lack of agreement on price) for work on this project, or unable to prepare a proposal, for the following reason(s):

Signature: _____

Date: _____

_____ was offered an opportunity to propose on the above
 (Name of SBLPP Contractor)

identified work on _____ by _____
 (Date) (Source)

The above statement is true and accurate account of why I did not submit a proposal on this project.

 (Signature of SBLPP Contractor)

 (Title)

SBLPP MANUFACTURER'S AFFIDAVIT

I hereby declare and affirm that I am _____ (Title)
 and duly authorized representative of _____ (Name of Company),
 a _____ owned and controlled enterprise
 whose address is _____

I further declare and affirm that company employees (persons not on the payroll of and/or performing the same tasks for disadvantaged owned business having any interest in the affiant's business) operate the following company equipment relative to the manufacturing process:

Equipment

Type	Function	Model	Age	Make
------	----------	-------	-----	------

Number of employees involved in the manufacturing process: _____

The undersigned swears that the foregoing statements are true and correct and fully understands that WMATA may rely on these statements in determining whether a WMATA prime contractor purchasing goods from the undersigned's manufacturing concern is entitled to a 100% credit of such purchases towards its SBLPP goal. The undersigned further understands that any material misrepresentation will be grounds for initiating action under Federal or state laws concerning false statements.

_____ Signature of Affiant	_____ Printed Name
-------------------------------	-----------------------

Date: _____ State: _____ County: _____

On this _____ day of _____, 19____,

before me appeared _____
 (Name)

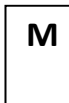
to me personally known, who, being duly sworn, did execute the foregoing Affidavit, and did state that he or she was properly authorized by _____
 (Name of Firm)

to execute the Affidavit and did so as his or her free act and deed.

(Seal) Sworn and subscribed before me _____
 (Notary Public)

Commission Expires: _____

23.29 (10/99)



Information For Determining Joint Venture Eligibility

Page 1

.....
Name and address of Joint Venture:

Contact Person: _____ Telephone: _____

Have you attached a copy of the Joint Venture agreement? Yes No

NOTE: Affidavit will not be processed without a copy of the Joint Venture agreement.
.....

Name and address of Joint Venture partner: _____

Contact Person: _____ Telephone: _____

Status of firm: SBLPP. Non-Minority.

Does firm have current WMATA, DC DOT or MWUCP SBLPP certification? Yes No
.....

Name and address of Joint Venture partner: _____

Contact Person: _____ Telephone: _____

Status of firm: SBLPP. Non-Minority.

Does firm have current WMATA, DC DOT or MWUCP SBLPP certification? Yes No
.....

Describe the nature of the Joint Venture business:

Describe the role in the Joint Venture of each partner listed above:

Describe the experience and business qualifications of each partner in the Joint Venture listed above:
.....

Information For Determining Joint Venture Eligibility

.....
Indicate the percentage of ownership in the Joint Venture for each Joint Venture partner, indicating dollar amounts wherever applicable.

Name of Partner	Percentage of Ownership	Profit and Loss Sharing	Capital Contributions including Equipment	Other Agreements
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

TOTALS:

.....
Identify by name, title, race, sex and company affiliation those individuals responsible for the management control of and participation in this contract:

1. Financial decisions, such as payroll, insurance, surety and/or bonding requirements:

Name: _____ Race: _____

Title: _____ Sex: Male Female

Company affiliation: _____

2. Management decisions, such as estimating, marketing and sales, hiring and firing, purchasing supplies:

Name: _____ Race: _____

Title: _____ Sex: Male Female

Company affiliation: _____

3. Supervision of field operations:

Name: _____ Race: _____

Title: _____ Sex: Male Female

Company affiliation: _____
.....

Information For Determining Joint Venture Eligibility

.....

The undersigned swear that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operations of our following named Joint Venture:

and the intended participation by each Joint Venturer in the undertaking. Further the undersigned covenant and agree to provide the Authority current, complete and accurate information regarding actual Joint Venture work and the payment thereof and any proposed changes in any of the Joint Venture arrangements and to permit the audit and examination of the books, records and files of the Joint Venture, or those of each Joint Venturer relevant to the Joint Venture, by authorized representatives of the Authority or the Federal funding agency. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal and State laws concerning false statements.

It is recognized and acknowledged that the Authority's SBE Program shall have access to the information provided herein above for the purpose of establishing eligibility and authenticity of the minority/woman-owned status of the Joint Venture.

It is understood that trade secrets and information privileged by law, as well as commercial, financial, geological and geophysical data furnished will be protected.

_____ (NAME OF FIRM)	_____ (NAME OF SECOND FIRM)
_____ (SIGNATURE OF AFFIANT)	_____ (SIGNATURE OF AFFIANT)
_____ (PRINT NAME)	_____ (PRINT NAME)
_____ (TITLE)	_____ (TITLE)
_____ (DATE)	_____ (DATE)

.....

Information For Determining Joint Venture Eligibility

Page 4

.....
Date: _____ State: _____ County: _____

On this _____ day of _____, 19____,

before me appeared _____
(Name)

to me personally known, who, being duly sworn, did execute the foregoing Affidavit, and did state that he or she was properly authorized by _____

(Name of Firm)

to execute the Affidavit and did so as his or her free act and deed.

(Seal) Sworn and subscribed before me _____
(Notary Public)

Commission Expires: _____

.....
Date: _____ State: _____ County: _____

On this _____ day of _____, 19____,

before me appeared _____
(Name)

to me personally known, who, being duly sworn, did execute the foregoing Affidavit, and did state that he or she was properly authorized by _____

(Name of Firm)

to execute the Affidavit and did so as his or her free act and deed.

(Seal) Sworn and subscribed before me _____
(Notary Public)

Commission Expires: _____

.....

M

 23.06c (Rev 10/99)

Washington Metropolitan Area Transit Authority (WMATA)

SMALL BUSINESS LOCAL PREFERENCE PROGRAM (SBLPP)
PRIME CONTRACTOR MONTHLY SUBCONTRACTING PAYMENT REPORT

Page _____ of _____
Reporting Period _____
Contract Number _____

This Report is required to be submitted to the DBE Office, Attn: Coordinator, Small Business Programs, 8201 Ardwick Ardmore Road, Landover, MD 20785, pursuant to the requirements of WMATA's SBLPP Program (Board Resolution 2005-45). **A copy of this form must also be submitted with firm's monthly invoice.**

Name of Prime Contractor: _____

Prime Contract Amount: _____ SBLPP Goal: _____

Name of Sub-Contractor	SBLPP (Y/N)	Description of Work	Date Contract Awarded	Amount of Sub-Contractor Award	Amount Paid This Reporting Period	Cumulative Paid To Sub-Contractor

I certify the information furnished with respect to SBLPP subcontractor performance correct to the best of my knowledge and represents a current status of the prime contractor with the SBLPP subcontractors for the designated period covered by this report. Further, those subcontractors, due payment pursuant to the terms of their subcontracts will be paid within ten days after receipt of payment from WMATA.

Signature & Title of Authorized Representative: _____

Date: _____

Washington Metropolitan Area Transit Authority (WMATA)

SMALL BUSINESS LOCAL PREFERENCE PROGRAM (SBLPP)
SBLPP MONTHLY PAYMENT REPORT

Page _____ of _____
Reporting Period _____
Contract Number _____

This Report is required to be submitted to the DBE Office, Attn: Coordinator, Small Business Programs, 8201 Ardwick Ardmore Road, Landover, MD 20785, pursuant to the requirements of WMATA's SBLPP Program (*Board Resolution 2005-45*).

SBLPP Subcontractor: _____

Prime Contractor: _____ Subcontract Amount: _____

Description of Service/Product Performed	Invoice Date	Invoice Amount	Payment Received From Prime Contractor (<i>Check # or EFT Confirmation #</i>)	Cumulative Payments Received From Prime Contractor

I certify the information furnished with respect to payment(s) by the prime contractor for the above services/products is true and accurate to the best of my knowledge.

Signature & Title of Authorized Representative: _____

Date: _____

COMBINED GLOSSARY OF DEFINITIONS

As used throughout this Contract, except to the extent otherwise expressly specified, the following terms shall have the meanings set forth below:

Acceptance: Acknowledgment by the Authority that the supplies, services, or other Work conform to the applicable contract requirements.

Acceptance Period: The number of days available to the Authority to award a Contract pursuant to this Invitation from the date of opening of bids in accordance with the terms of this solicitation, during which period bidders may not withdraw their bids.

Amendment: Written or graphic instructions issued to clarify, revise, add, or delete IFB requirements issued prior to the bid opening date.

Approval of a Submittal or any other item shall be solely for the purpose of establishing conformance to the Contract documents.

Article: One of the provisions of this Contract, each identified separately by number and title, which may contain subdivisions denominated as paragraphs and subparagraphs.

As shown, as indicated, as detailed or words of similar import: Shall be understood to mean that the reference is made to the Contract documents.

As specified, as described, or words of similar import: Shall be understood to mean that the reference is made to the Contract documents.

Authority or WMATA or Metro: The Washington Metropolitan Area Transit Authority, created effective February 20, 1967, by interstate compact by and between Maryland, Virginia and the District of Columbia pursuant to Public Law 89-774, approved November 6, 1966.

Bid: A submission made by an interested party seeking to receive award of a Contract pursuant to this Solicitation that, if accepted by the Authority, would bind the bidder to perform the resultant Contract.

Bidder: A party submitting a bid pursuant to this Solicitation.

Bidder's Default: The unjustified failure or refusal of the bidder to whom WMATA tenders a Contract pursuant to this solicitation to accept the award of, and proceed to execute upon such Contract.

Board of Directors: The Board of Directors of the Washington Metropolitan Area Transit Authority.

Breach: An unexcused and unjustifiable failure or refusal of a party to satisfy one or more terms of the Contract which, if material, shall constitute a basis for potential default.

Chapter: one of the principal divisions of the Contract terms, each identified by separate name and roman numeral, and each containing multiple numbered Articles.

Change or Change Order: A written alteration issued, upon agreement of both parties or unilaterally by the Authority, to modify or amend the Contract, generally directing changes to the Scope of Work and/or contract terms.

Claim: A written demand or assertion by the Contractor seeking, as a legal right, the payment of money, adjustment or interpretation of Contract terms, or other relief, arising under or relating to this Contract.

Constructive Change: An act or omission by the Authority that, although not identified as a Change Order, does in fact cause a change to the Work of the Contract.

Contract or Agreement: The written agreement executed between the Authority and the Contractor awarded pursuant to this solicitation and covering the work as set forth in the Contract Documents.

Contract Administrator: the Authority representative designated to serve as its primary point of contact for pre-award activities relating to this solicitation as well as such post-award activities as are set forth in the Contract documents.

Contract Documents: The documents consist of the IFB documents, all amendments issued before the effective date of the Contract, and all modifications issued after the effective date of the Contract.

Contracting Officer: An employee with authority duly delegated from the powers of the Chief Procurement Officer to legally bind the Authority by signing a contractual instrument. The Contracting Officer is the Authority's primary point of contact for pre-award administration, modifications above the limits of the Contracting Officer Representative, and final settlement.

Contracting Officer Representative: The person to whom the Contracting Officer delegates the authority and responsibility for post award execution of the Contract. The Contracting Officer Representative is the Authority's primary point of contact with its Contractor.

Contractor: The individual, partnership, firm, corporation, or other business entity that is contractually obligated to the Authority to furnish, through itself or others, the supplies, services and/or construction services described in the Contract, including all incidentals which are necessary to complete the work in accordance with the Contract.

Contract Price: The amount payable to the Contractor under the terms and conditions of the Contract based on lump sum prices, unit prices, fixed prices, or combination thereof, with any adjustments made in accordance with the Contract.

Data: Recorded information, regardless of form or the media on which it may be recorded, including technical data and computer software.

Day: Calendar day, except where the term business day, work day or like term is used.

Disadvantaged Business Enterprise ("DBE"): A for-profit small business concern that has been certified by the Authority to be at least 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more individuals, and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Descriptive literature: Information provided by a bidder, such as cuts, illustrations, drawings, and brochures that shows a product's characteristics or construction of a product or explains its operation. The term includes only that information needed to evaluate the acceptability of the product and excludes other information for operating or maintaining the product.

Explanation: Additional information or clarification provided by an Authority representative to one or more prospective bidders in response to an inquiry relating to the solicitation, which information or

clarification shall be binding upon the Authority only to the extent specified in the solicitation instructions.

Final Acceptance: Final acceptance of the work occurs when the work is fully, completely, and finally accomplished in strict compliance with the contract documents to the satisfaction of the Authority.

Final Payment: The last payment to the Contractor for Work performed under the Contract, made following final acceptance

Force Majeure: An unforeseen event or circumstance, beyond the control of, and not occasioned by the fault or neglect of, the Contractor or the Authority, which event gives rise to a delay in the progress or completion of the Work of the Contract, including, without limitation, acts of God, acts of war or insurrection, unusually severe weather, fires, floods, strikes, freight embargoes or other events or circumstances of like nature.

Terms and Conditions: A compilation of contractual and legal requirements that lists the rights, responsibilities, and relationships of the parties to a contract and defines duties and limits of authority in performance of contract administration.

Government: The government of the United States of America.

Industry Standards: Drawings, documents, and specifications or portions thereof published by industry organizations. Industry Standards are not Contract documents unless specifically listed as such in a WMATA Standard Specification or WMATA Guide Specification.

Jurisdictional Authority: Refers to federal, state, and local authorities or agencies having approval authority over work to which reference is made.

Legal Requirements: All federal, state and local laws, ordinances, rules, orders, decrees, and regulatory requirements such as: building codes, mechanical codes, electrical codes, fire codes, Americans with Disabilities Act Accessibility Guidelines (ADAAG) regulations and other regulations of any government or quasi-government entity that are applicable to the Project.

Milestone: A specified date in the Contract by which the Contractor is required to complete a designated portion or segment of the work.

Minor Irregularity: A variation from the solicitation contained in a bid that does not affect the price or other material term of the Contract and does not confer a competitive advantage or benefit not enjoyed by other bidders or adversely impact the interests of the Authority.

Modification: A written document issued which alters the scope of the work, the schedule, the Contract price, the period of performance, or makes any other change to the Contract after award or execution.

Notice to Proceed: Written notice issued by the Authority establishing the date on which the Contractor may commence Work and directing the Contractor to proceed with all or a portion of the work.

Option: A unilateral right in the Contract by which, for a specified time, the Authority may elect to purchase, at a predetermined specified price, additional Supplies, Services and/or Work called for by the Contract or to extend the term of the Contract.

Organizational conflict of interest: A circumstance in which, because of other activities or relationships with other persons, a person or entity is unable or potentially unable to render impartial

assistance or advice to the Authority, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person or entity has an unfair competitive advantage.

Paragraph: A subdivision of an article contained in this Contract, generally introduced through a non-capitalized letter (e.g. "(a)").

Period of Performance: The time allotted in the Contract documents for completion of the work. The Period of Performance begins upon the effective date of the Notice to Proceed and ends on the date of acceptance. The period of performance incorporates the milestones established for the Contract.

Pre-award Survey: An evaluation of a prospective Contractor's capability to perform a proposed Contract, including an assessment of matters relating to its responsibility.

Product Data: Information furnished by the Contractor to describe materials used for some portion of the Work, such as written or printed descriptions, illustrations, standard schedules, performance charts, instructions, brochures, and diagrams.

Records: Books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

Services: The performance of work by a person or legal entity under contract with the Authority, including without limitation: maintenance; overhaul; repair; servicing; rehabilitation; salvage; modernization or modification of supplies, systems or equipment; routing recurring maintenance of real property; housekeeping; operation of Authority-owned equipment, facilities and systems; communication services; Architect-Engineering services; professional and consulting services; and transportation and related services.

Subparagraph: A subdivision, at any tier, of a paragraph contained in an Article of this Contract.

Supplies: The end item(s) required to be furnished by the Contractor in fulfillment of its obligation under this Contract as well as any and all related services and required performance

Statement of Work/Scope of Work ("SOW"). The portion of a contract or IFB that describes specifically what is to be done by the Contractor. It may include specifications, performance outcomes, dates and time of performance, quality requirements, etc.

Solicitation: This Invitation for Bids (IFB) and the accompanying Contract Documents.

Shop Drawings: Fabrication, erection, layout, setting, schematic, and installation drawings prepared by the Contractor for permanent structures, equipment, and systems designed by it to comply with the Contract Documents.

Similar: Generally the same but not necessarily identical; details shall be worked out in relation to location and relation to other parts of the Work.

Subcontract: An agreement between the Contractor and another party, or between other subcontractors at any tier, to perform a portion of the work of the Contract through the acquisition of specified supplies, materials, equipment or services.

Subcontractor: An individual, firm, partnership, or corporation that has a contractual obligation with the Contractor or other subcontractor or supplier.

Submittal: Written or graphic document or sample prepared for the work by the Contractor or a Subcontractor or Supplier and submitted to the Authority by the Contractor, including shop drawings, product data, samples, certificates, schedules of material, or other data.

Substantial Completion: Work or a portion thereof that has progressed to the point where it is sufficiently complete in accordance with the Contract documents (including receipt of test and inspection reports) so that the work, or a specified portion thereof, can be utilized for the purpose for which it is intended, and only incidental work remains for physical completion of the work in accordance with the Contract documents.

Substitution: An item offered by the Contractor of significant difference in material, equipment, or configuration, which functionally meets the requirements of the Contract documents but is submitted in lieu of item specified therein.

Supplier: A Subcontractor who is a manufacturer, fabricator, supplier, distributor, or vendor having a contract with the Contractor or with another subcontractor to furnish items, materials or equipment to be utilized or incorporated in the work of the Contract.

Utility: A public and private facility or installation, other than a WMATA system facility, which relates to (1) the conveyance and supply of water, sewage, gas, chemicals, steam, petroleum products, and other piped installations, or (2) electrical energy, telephone, telegraph communications, radio, television, and cellular or wireless communications.

Utility Standards: Drawings and specifications for Utilities published or issued by municipalities or Utility companies.

Wherever in the Contract, the words directed, ordered, designated, prescribed or words of like import are used, it shall be understood that the direction, requirement, order, designation or prescription of the Contracting Officer is intended and similarly the words approved, acceptable, satisfactory or words of like import shall mean approved by, or acceptable to, or satisfactory to the Contracting Officer, unless otherwise expressly stated.

WMATA CAD Manual: Document that establishes drafting criteria for drawings and electronic files that provide templates for drawing/plotter configuration to bidders and Contractor.

WMATA Safety Manual: A compilation of the appropriate safety and reporting requirements for the Project as specified in Section 00370, WMATA SAFETY AND SECURITY REQUIREMENTS.

WMATA Safety and Security Certification Program Plan: A compilation of the appropriate System safety and security certification requirements for the project.

Work: All of the services of any kind, as well as any and all goods, supplies, equipment, labor, material, delivery and other work of any type and nature to be furnished and/or performed pursuant to a Contract awarded through this solicitation such as to accomplish the Contract's stated objectives in a timely and fully satisfactory manner.

ATTACHMENT 1:
Scope of Work

SCOPE OF WORK

1. The Offeror shall make entries in the “Price Schedule” (See attachment 2) in the following columns:
 - a. Mfg. / Supplier/ Distributor.
 - b. Vendor P/N place a “check” if the same as Knorr P/N or write the proposed P/N.
 - c. Unit Price
 - d. Lead Time, and
 - e. Comments (if any)

Note: The extended price and total price is automatically populated.

2. The Offeror shall make entries on the “Price Schedule Sheet for Option Years 1 to 4” (See attachment 3)
 - a. Indicate the percent escalation (%) from the previous year (see attachment 3).

ATTACHMENT 2:

Price Schedule Sheet for BASE YEAR 1
(SEE EXCEL FORMAT)

ATTACHMENT 3:
Price Schedule Sheet for
OPTION YEARS 1 to 4

IFB No. CQ15126/RSS
 Rail Inventory Parts

Offeror shall propose the escalation rate for the Option Years.

Unit price for option years will be adjusted at the time of exercising the option by applying the following escalation rate:

Term		PERCENT Price Escalation From the Previous Year
OPTION YEAR 1	Percent Price Escalation against Base Year 1	%
OPTION YEAR 2	Percent Price Escalation against Option Year 1	%
OPTION YEAR 3	Percent Price Escalation against Option Year 2	%
OPTION YEAR 4	Percent Price Escalation against Option Year 3	%

 Authorized Signature

 NAME

 Company

 Date

ATTACHMENT 4:

**113-19 Rev. 0 Supplier and Delivery
Requirements**



Washington Metropolitan Area Transit Authority

DEPARTMENT OF TRANSIT INFRASTRUCTURE
& ENGINEERING SERVICES

Administrative Procedure

CATEGORY Organization and Administration		TOPIC Supplier Shipping and Delivery Requirements	
PROCEDURE NO. 113-19	TITLE Supplier Shipping and Delivery Requirements		
LATEST REVISION NO. REV.0	LATEST REVISION DATE 6/19/2012		
PROCEDURE APPLIES TO Department of Transit Infrastructure and Engineering Services			
OFFICE/INDIVIDUAL OF PRIMARY RESPONSIBILITY QAAW / Director of Quality Assurance and Warranty			
DISTRIBUTION Transit Infrastructure & Engineering Services Offices (TIES)		Approved By: PRMT: <i>Heather A. O'Connell</i> Date: 4/21/12 CENV: <i>[Signature]</i> Date: 6/19/12	
Approved By: Director of Quality Assurance and Warranty (QAAW) <i>[Signature]</i> 6/19/2012		Approved By: AGM/Transit Infrastructure and Engineering Services (TIES) <i>Adm R. Tr</i> 6/19/2012	



Revision History

Date Released	Revision	Author	Section Changed	Description of Change
6/19/2012	0	C. Fisher		Initial Release



1. PURPOSE

The purpose of this procedure is to establish the requirements for packaging, packing, identification, handling and delivery of items to the Washington Metropolitan Area Transportation Authority (WMATA).

This document shall serve as the primary source for definition in this area, unless specifically directed otherwise on the purchase order.

These requirements shall be made available to all WMATA suppliers.

2. SCOPE

Use of this document shall ensure cost effective, safe, efficient damage free packaging as well as defining handling, storage, marking/labeling, documentation and transportation/delivery requirements for suppliers who provide raw materials, parts and assemblies to WMATA.

3. RESPONSIBILITIES

3.1 Authorities

All questions shall be directed to the WMATA designated Contracting Officer (CO), Contract Administrator (CA) or Purchasing Agent (PA).

Packaging, Handling, Storage, and Transportation quality issues shall be directed to the WMATA Quality Assurance and Warranty (QAAW) Department through the WMATA CO, CA or PA.

Suppliers shall be diligent in enforcing the elimination of paper debris, metal shavings, dirt, etc. within new and reusable shipping containers.

Packaging, Packing Changes or Questions affecting preservation and packing shall be forwarded to the WMATA CO, CA or PA for disposition through the QAAW department.

3.2 Product Preservation

Packaging, packing, and shipping requirements for materials, parts, and assemblies shall meet, at a minimum, best commercial practice in accordance with ASTM D 3951-Standard Practice for Commercial Packaging.

All materials, parts, and assemblies shall be able to be stored in an enclosed facility for a minimum period of one (1) year without damage or degradation to the item.



Preservation and packaging factors shall include, but not be limited to:

- Fragile/Non-Fragile
- Sensitive to vibration or shock (electronic components, gauges, test equipment, etc.)
- Hazardous material
- Temperature sensitive (Sealers, Adhesives, Paints, Rubber products, etc.)
- Light sensitive (Rubber, Fabrics, Foams, etc.)
- Shelf Life (Batteries, Compressed Gases, Decals, Foams, Paints, Sealers/Adhesives, Rubber, Seat Belts and Webbing, Tapes, Tires, etc.)
 - Shelf Life items are to be marked with the Date of Manufacture (DOM), Date of Expiration (DOE) and Manufacturer's suggested shelf life for product.
 - Rubber products shall include, but not be limited to, all types of seals and gaskets. This material shall not be kinked when packaged and/or packed for shipment. Cure dates and/or shelf life dates shall be marked on the unit, any intermediate packaging, and shipping containers.
- Special orientation requirements, i.e. directional vertical/horizontal marking on the container.
- Sensitive to electrostatic discharge, electromagnetic, magnetic, or radioactive fields
- Special storage or clean environment
- Special handling equipment, handling techniques, stacking, blocking devices, or engineered containers

Other considerations shall include evaluation of industrial (commercial) packaging compared to International Specifications to ensure all required levels of protection.

Cleanliness - Items shall be free of dirt and other contaminants which would require cleaning by WMATA prior to use. Coatings and preservatives to the item for protection are not considered contaminants.

Preservation - Items susceptible to moisture, corrosion or deterioration shall be provided protection such as preservative coatings, volatile corrosion inhibitors (VCI) or desiccant unit packs in accordance with best commercial practice.

Major Assemblies - Shall be double-wrapped with 4-mil (minimum) polyethylene sheeting and all seams shall be entirely sealed with waterproof tape. Major assemblies shall be protected from moisture with MIL-D-3464 Desiccant or equivalent. (Desiccant shall not be positioned directly against assembly surface).

Wrapping/Cushioning - Items requiring protection from physical and mechanical damage, or which are fragile by nature shall be protected by wrapping, cushioning, compartmentalization, or other means to mitigate shock and vibration during shipment and storage.

Packing Materials - Kraft paper, plastic sheeting, bags or sleeves, bubble wrap, polyethylene foam, polyurethane foam-in-place, nylon netting (for tubes, cylinders, etc.), plastic, tubing (bolt thread protection), and plastic caps/plugs are acceptable types of packaging materials.



Loose polystyrene material (i.e., peanuts, chips), shredded paper and starch materials (i.e. edible popcorn) shall not be used as packaging materials.

Loose materials for hazardous packaging (i.e., vermiculate) are acceptable only when shipping hazardous materials.

Plastic Bag Closure - Plastic bags used for inner packaging shall be closed by heat sealing, zip-loc, fold and fasten (tape), or tie (zip-ties, string). Use of staples is not permitted. The closure shall be adequate to retain items within the bag and prevent intrusion of contaminants or foreign objects. The bag closure shall be adequate to prevent escape of any contained liquids.

Plastic bags shall not be used for preserved (greased or oil) items. Bags fabricated from wax-coated to heavy duty kraft paper are an acceptable alternative to plastic bags.

3.3 Packaging; Unit and Intermediate

Unit Package - The unit package shall provide protection from shock, vibration, and other hazards during transportation, storage and handling.

Unit Package Quantity – All items shall be suitable for redistribution without additional repackaging or marking unless otherwise specified. The standard unit package quantity shall be one (1) each part, set, kit or assembly. Exceptions are small lightweight items, such as industrial hardware, which shall be unit packaged in quantities that are standard, as listed below. Bulk packaging is specifically excluded unless specified in the contract or purchase order. If bulk is specified in the contract or purchase order, maximum weight per bulk unit container (industrial hardware items) is five pounds (5lb).

Intermediate Package - The use of an intermediate package/container (bag, fiberboard carton) is encouraged particularly when such use enhances handling and transportation.

Intermediate package/container standard increments shall be 10, 25, 50 and 100 Maximum. (Size and weight of the unit package shall be considered when determining quantity)

The Maximum load for a fiberboard carton shall be 50 pounds.

3.4 Packing

Packing - Unit and intermediate packages not meeting the requirements for a shipping container shall be packed in shipping containers.

Kits – Packaging and packing shall be in accordance with best commercial practice. Each kit having unlike items, but identified by a single part number (kit number) shall have a packaging list identifying and detailing each item within the kit.



Shipping Containers - The shipping container (including any necessary blocking, bracing, cushioning, or waterproofing) shall comply with the regulations of the carrier used and shall provide safe delivery to the destination. It shall be capable of multiple handling and storage under favorable conditions for a minimum of one (1) year.

Fiberboard Cartons - Corrugated fiberboard cartons, meeting ASTM D 5118-Standard Practice for Fabrication of Fiberboard Shipping Boxes requirements, are the preferred shipping container. The maximum weight limit for fiberboard shall be 50 pounds (for ease of handling, safety, and to minimize crushing due to stacking during transport).

Wood-Cleated Panelboard Shipping Crate - These types of crates may be used as intermediate packaging/containers as well as standalone unit containers. These crates shall meet ASTM D 6251-Standard Specification for Wood-Cleated Panelboard Shipping Boxes or equivalent.

Weather-Resistant Containers - A weather-resistant container (wood, metal, fiberglass or fiberboard) shall be used for shipping items subject to moisture damage.

Major Assembly Containers - Major assembly containers, requiring load bearing capabilities, shall comply with ASTM D 6256 or equivalent. Contour blocking and bracing and/or Foam-In-Place cushioning (.5 pound minimum) are an acceptable means of packing.

All containers shall have a fork lift access on sides and ends.

Metal banding (.5"-75"), meeting ASTM 3953-Standard Specification for Strapping, Flat Steel and Seals or equivalent, is required around the circumference (to side, bottom, side) of all wood containers.

Major assembly containers shall be over-packed (placed inside) in a land-sea container to protect from outside elements for transportation to WMATA in accordance with this procedure.

The supplier shall specify the preferred mode of transport depending upon schedule and circumstance. Contingent to WMATA approval.

3.5 Containerization Weight and Size Limitations

Raw Stock-Skid - Bundled, or palletized raw stock material shall not exceed 4,000 pounds per unit of pack and no pallet height to exceed six (6) feet.

Purchase Parts - Properly protected parts containerized onto a skid, bundle, or palletized loads shall not exceed 2,000 lbs. per unit of pack and no pallet height shall exceed four (4) feet.

3.6 Marking, Labeling and Documentation

Box or Package Marking - Remove or obliterate the "old" markings from reusable shipping cartons, crates and containers.



EXCEPTION: Special handling markings (i.e., “Fragile”, “UP”, “Do Not Drop”, “ESD”, “Hazardous markings”, etc.) and ISPM-15 markings are required. These markings may remain on reusable shipping containers so long as they are verified as being applicable to the product and are accurate and legible prior to re-shipment.

First Article Inspection - All shipments containing First Article Inspections (FAI) shall be marked with a FAI identification label. If there are several orders in the shipment, each order containing a FAI shall be marked with a FAI identification label. Place the label(s) on the identification side of the package only. Do not place on the top or bottom of the item(s).

Source Inspection Items - All shipments containing Source Inspected items shall be marked with Source Inspected identification label. If there are several orders in the shipment, each containing Source Inspected items, each order shall be marked with a Source Inspected identification label. Place the label(s) on the identification side of the package only. Do not place on the top or bottom of the item(s).

Documentation - When Certificates of Compliance, tests, and/or reports are specified as a requirement on the purchase order these documents shall be placed in a plastic sealed bag and be affixed on the same side as, and near the shipping label.

Tests and Reports - When specified in the Contract or Purchase Order, the Seller shall furnish WMATA QAAW with all test results, certificates, chemical and physical test reports and any and all required documentation.

Test reports and/or certification for materials supplied under this contract or purchase order shall be retained by the Seller for a period not less than five (5) years after shipment of materials.

Use of the English language is required for all tests and reports.

The Seller agrees to furnish written reports regarding schedule compliance upon the CO, CA or PA’s request.

Only original or copies of original documents shall be supplied for the item(s). Transcribed data onto supplier documentation shall not be accepted.

Required Documents may be:

- Attached to the delivered item(s) in accordance with this procedure
- Supplied to the CO, CA or PA by e-mail, fax, hand delivered or US Mail



Packing Sheet Requirements:

- Name and Address of the Supplier
- WMATA Purchase Order Number
- WMATA Part Number as it appears on the Purchase Order
- The Manufactures Part Number
- Quantity Shipped and Unit of Measure
- Other product specific information as applicable to each shipment.

This information shall include, but not be limited to:

- Rejection tag number
- Variation Request number
- Condition of Supply Authorization, etc.

Bill of Lading Requirements:

- Supplier Name and Address
- Carrier Routing
- Description of freight according to the applicable freight classification (North American Freight Classification Guide)
- WMATA Purchase Order Number
- Number and Type of Containers
- Total Weight of Shipment

3.7 Bar-Coding

Requirement - In addition to other required markings and labels, each shipment shall be identified with a barcode utilizing the WMATA eProcurement website.

Software and Hardware Operating Requirements - Barcodes are to be created using the Advanced Shipment Notification (ASN) process through the WMATA eProcurement website.

Requirement for Use:

- Internet Access
- Personal Computer
- Inkjet or Laser Printer

Electrostatic Sensitive Device (ESD) - Intermediate and exterior packs are to be identified with sensitive electronic device caution labels. All ESD items shall be handled in accordance with WMATA QAAW procedure 113-25, ESD Control.



3.8 Hazardous Materials

Compliance - Hazardous materials shipped to WMATA shall be compliant with all applicable DOT 49 CFR Regulations and as allowed by 49 CFR 171.22, the IATA/ICAO Regulations (Air Transportation), IMDG (Vessel), and UN Model Regulations.

Regulatory Organizations:

- DOT-Department of Transportation
- IATA-International Air Transportation Association
- ICAO-International Civil Aviation Organization
- IMDG-International Maritime Dangerous Goods
- UN Model Regulations-Recommendations on the Transport of Dangerous Goods

Hazardous Chemicals shall be labeled, tagged or marked with the identity of the material and appropriate hazard warning per (29 CFR 1910.1200 Appendix E, A.-Labels and Other Forms of Warning).

3.9 Hazard Materials Marking and Labeling

Identification Requirements - As regulated by the 49 CFR 172 Hazardous Material Table:

- Proper Shipping Name (Assigned)
- Hazard Class (1-9)
- Identification Number (UN, ID, NA)
- Packing Group (I, II, III, or None)

Communication Requirements - As regulated by 49 CFR 172 subpart D and E.

Mark and Label Package with:

- Proper Shipping Name
- Identification Number
- Orientation markings or other applicable markings
 - Diamond-shaped handling labels (cargo aircraft only, etc.)
- Rectangular-shaped handling labels (cargo aircraft only, etc.)

Describe the shipment on Shipping Papers - As regulated by 49 CFR 172 subpart C:

- Proper Shipping Name
- Hazard Class
- Identification Number
- Packing Group (when applicable)
- In addition to the basic description there may be other required information such as:
 - DOT-Exemption
 - EX Numbers
 - Warning Indications



Material Safety Data Sheets (MSDS) - As entitled by 29 CFR 1910.1200 Appendix E (B), WMATA requires all shipments that meet the definition of a hazardous material per OSHA or DOT regulations shall include the most current MSDS with each shipment.

HAZMAT Packaging - All hazardous material packages shall meet or exceed the required specifications of 49-CFR 173-Shippers-General Requirements for Shipments and Packaging.

Bulk Chemicals, Compressed Gases, and Petroleum Products - The delivery of bulk chemicals and petroleum products (e.g., fuel oil, gasoline, etc.) into above or below ground tanks at a WMATA facility shall be supervised by an authorized WMATA employee to minimize the potential for release of hazardous substances during delivery, except the delivery of bulk compressed gases. All deliveries, including compressed gases, shall be accepted only during normal working hours, or as specified within the contract or purchase order.

Packaging of Cylinders - Shall meet all requirements of compressed gases in accordance to 49 CFR 178; Specification for packaging; Subpart C-Specifications for cylinders. Filling of cylinders and re-qualification requirements shall also meet the detail of 49 CFR 173.300 Subpart G; Gases; Preparation and Packaging or their equivalents.

NOTE: Compressed Gas containers shall display a Recertification date as well as the Service Life Date of the Cylinder.

Bulk is defined as a product delivered in a transport container and transferred at WMATA to a storage container.

WMATA ENVIRONMENTAL HEALTH AND SAFETY CONTACT INFORMATION:

- Questions and/or comments regarding packaging, packing or transportation of hazardous materials (HAZMAT) shall be forwarded to WMATA Environmental Engineering for disposition through the Supplier Quality department.

3.10 Customs and Foreign Suppliers

Marking Requirements - Follow shipping instructions as printed on the contract or purchase order.

Special Marking Requirements for Imported Merchandise:

Seller shall comply with U.S. Customs and Border Protections (US CBP) marking requirements by marking either the article and/or its container with the Country of Origin (Country of Manufacturer); in accordance with 19 CFR 134.11-Country of origin marking required.

Imported shipping containers fabricated from solid wood lumber (including interior blocking and bracing shall be fabricated and marked in accordance with ISPM-15-International Standards of Phytosanitary Measures (Guidelines in Regulating Wood Packaging Measures in International Trade)

The Packing slip shall reference the purchase order number, part(s) shipped, country of origin and a copy of the commercial invoice shall be located on the outside of the container. Non-compliance to this requirement may result in rejection of a shipment and return of that shipment at the seller's expense. This action shall be at WMATA's sole discretion.

The Seller shall be responsible, in the full amount, for any fines or penalties levied against WMATA by US CBP for failure to comply with US CBP regulations.

4 SUPPORTING DOCUMENTATION

Federal:

- 19 CFR 134.11, Country of Origin Marking Required
- 29 CFR 1910.1200, Appendix E, A Labels and Other Forms of Warning
- 29 CFR 1910.1200, Appendix E, B Material Safety Data Sheet (MSDS)
- 49 CFR Title 49, Code of Federal Regulations (Transportation; Parts 100 to 180)
- 49 CFR 171.22, Authorization and Requirements for the Use of International Transport Standards and Regulations
- 49 CFR 172, Hazardous Material Table
- 49 CFR 172, Subpart C Shipping Papers
- 49 CFR 172, Subpart D Marking
- 49 CFR 172, Subpart E Labeling
- 49 CFR 173, Shippers-General Requirements for Shipments and Packaging's
- 49 CFR 173.300 (301), Subpart G Gases; Preparation and Packaging

Commercial and Industry:

- ASTM D 3951, Standard Practices for Commercial Packaging
- ASTM D 3953, Standard Specification for Strapping, Flat Steel and Seals
- ASTM D 5118, Standard Practice for Fabrication of Fiberboard Shipping Boxes
- ASTM D 6251, Standard Specification for Wood-Cleated Panelboard Shipping Boxes
- ASTM D 6256, Wood-Cleated Shipping Boxes with Skidded, Load-Bearing Bases
- International Standards of Phytosanitary Measures (Guidelines in Regulating Wood Packaging Measures in International Trade)
- JEDEC JESD 625-A, Requirements for Handling Electrostatic Discharge Sensitive (ESDS) Devices



WMATA Standards:

- QAAW procedure #113-05, Receiving and Inspection
- QAAW procedure #113-06, First Article
- QAAW procedure #113-07, Control of NonConforming Material
- QAAW procedure #113-15, Material Review Board
- QAAW procedure #113-25, ESD Control

ATTACHMENT 5:

113-05 Rev. 1 QAAW Receiving Inspections



Washington Metropolitan Area Transit Authority
**DEPARTMENT OF
TRANSIT INFRASTRUCTURE &
ENGINEERING SERVICES**
Administrative Procedure

CATEGORY Organization and Administration		TOPIC Receiving Inspection	
PROCEDURE NO. 113-05	TITLE QAAW Receiving Inspection		
LATEST REVISION NO. REV.1	LATEST REVISION DATE 4/2/2012		
PROCEDURE APPLIES TO Department of Transit Infrastructure & Engineering Services			
OFFICE/INDIVIDUAL OF PRIMARY RESPONSIBILITY QAAW / Director of Quality Assurance and Warranty			
DISTRIBUTION Transit Infrastructure & Engineering Services Offices (TIES) and PRMT		Approved by: PRMT <i>Michael A. Ober</i> 4/27/12	
Approved By: Director of Quality Assurance and Warranty <i>Michael A. Ober</i> 4/27/2012		Approved By: AGM/Transit Infrastructure & Engineering Services (TIES) <i>Adm R. T.</i> 4/27/2012	



Revision History

Date Released	Revision	Author	Section Changed	Description of Change
12/22/2009	0	RB	All	Initial Release
4/2/2012	1	Fisher	All	Update Entire Procedure – All Sections



1. PURPOSE

This document defines and establishes processes for acceptance inspection of rail car materials, parts and equipment prior to being entered into inventory.

To prevent the unauthorized use of materials, parts, tools and equipment that do not meet the established criteria or specifications set forth by the Department of Transit Infrastructure & Engineering Services (TIES)

2. SCOPE

This procedure describes the requirements, controls, procedures and documentation which shall be in effect during the receiving inspection process of rail car materials, parts and equipment prior to being entered into inventory.

3. RESPONSIBILITIES

1. Responsibility for the control of inventory is vested with PRMT.
2. The implementation and enforcement of this procedure shall be the responsibility of TIES Office of Quality Assurance and Warranty (QAAW).
3. QAAW Receiving Inspection shall be responsible for the following:
 - Conducting compliance inspections to the CENV specifications/drawings
 - Review of all incoming receiving documentation from suppliers, PRMT and SRML
 - Ensure compliance to the all established specifications by WMATA
4. All TIES employees are responsible to adhere and comply with the guidelines established in this procedure.
5. All TIES employees are responsible for notifying the QAAW office when rail non conforming/suspect material conditions have been identified.

4. DEFINITIONS

4.1: Department / Office

- CENV Chief Engineer Vehicles
- CMNT Car Maintenance
- IAW In Accordance With
- QAAW Quality Assurance and Warranty
- PRMT Procurement
- SRML Storerooms and Material Logistics
- TIES Transit Infrastructure & Engineering Service
- PLNT Office of Plant Maintenance
- TRST Office of Track and Structures
- SMNT System Maintenance

4.2: Rail Stock Classification

“A” – Car Maintenance (CMNT) new, repairable or consumable items for 6000 series car.

“B” – Car Maintenance (CMNT) new, repairable or consumable items for BREDA 4000 series car.

“C” – Car Maintenance (CMNT) new, repairable or consumable items for CAF 5000 series car.

“F” – System Maintenance (SMNT), new, repairable or consumable items for Fare collection.

“L” – Car Maint. (CMNT) new, repairable or consumable items for Alstom 2K/3K (Rehab) series car.

“M” - Car, System, Plant & Track/structures (CMNT, SMNT, PLNT, TRST) repairable units restored to use from unserviceable assemblies.

“R” – Car Maintenance (CMNT) mainly new, repairable or consumable items for ROHR 1000 series but also other cars, systems, plant and track/structures as required (CMNT, SMNT, PLNT, and TRST).

“S” – System maintenance (SMNT) fare collection repairable units restored to use from unserviceable assemblies.

“V” – Repairable units restored to use from unserviceable assemblies by a contract vendor.



5. POLICIES

Rail car parts and materials, tools or equipment shall not be entered into inventory prior to acceptance inspection.

All incoming rail car parts and materials, tools and equipment shall be handled according to this procedure.

All parts and materials shall meet specification and drawing requirements, and shall meet inspections described in this procedure before deemed suitable for entry into inventory.

QAAW “Hold” and “Reject” tags, Attachment A, shall be completed as shown in section 7.0 of this procedure.

Material Disposition:

- Parts characterized as “Compliant” shall be stamped and “Moved to Stock”
- Parts characterized as “Non-Compliant” shall be tagged as “Reject” and Returned to PRMT
- Parts characterized as ‘Suspect” shall be tagged as “Hold” and shall be placed in the Quality Hold Area.

Material inventory shall be used to support QAAW incoming receiving inspection when no drawings are available to support inspection for functionality (fit, form, & function):

- QAAW shall complete a PRMT Material Usage Form and submit it to the Superintendent, when material is located at 400 Warehouse.
- The PRMT Superintendent shall create an internal purchase order to move items from one storeroom to another. This procedure requires a return response within 1 working day up to a 24 hour period.
- If the part is held by QAAW for more than an 8 hour period, QAAW shall submit a Work Order in Maximo.



Move to Stock – after an item has passed three consecutive receiving inspections within one year from the same vendor and are found to be complaint, this item in the future may be identified as “Moved to Stock.”

- The invoice shall be stamped “QAAW Move to Stock”. PRMT shall be responsible to move the item or material.

Returned to PRMT – an item has failed the receiving inspection process. The item/material does not comply with the specification or drawing requirements, it shall be return to PRMT for final disposition and an MDR shall be issued IAW QAAW procedure 113-07, NonConforming Materials

- The QAAW Reject Tag and completed MDR shall be attached to item/material. PRMT shall be responsible to move the item or material.

A QAAW Hold – during the receiving inspection process further documentation or drawings are required to determine final disposition.

- A QAAW Hold Tag shall be attached to the item or material. All items shall remain in the Hold area until final disposition.

Suspect parts and materials shall change disposition to either “Move to Stock” or if required have a MDR issued and “Return to PRMT”.

For each received part or material, a permanent file shall be maintained with a copy of the original receiving documents, incoming inspection sheet and other significant information to provide for traceability.

6. PROCEDURE

- 1) Outside vendors deliver parts to MSF 400 receiving areas.
- 2) PRMT receiving personnel shall verify the parts delivered against packing list, and verify packing list against purchase order in Maximo.
- 3) PRMT provides all supplier documentation with the item or material (packing list, specifications, certifications etc...).This shall be attached with the item/material.
- 4) QAAW inspects parts for condition, quantity and key product characteristics, to ensure compliance to the specification. Supplier documentation is reviewed for completeness and correctness.



5) The Acceptable Quality Level (AQL) = 0,

One (1) discrepancy rejects the entire lot. QAAW shall use the zero-based acceptance sampling plan with 4.00% as a sample average (attachment F).

6) QAAW shall stamp “QAAW Move to Stock” on all approved items or place a “Hold” or “Reject” tag on nonconforming items at the conclusion of each inspection identifying to PRMT the status of the product. See attachment B for stamp examples.

7) PRMT shall move all material from the Receiving Inspection area to its designated location.

Move to Stock: “Approved”

- 1) Materials, parts, tools or equipment have been inspected and found to be compliant. Items shall be identified as “Move to Stock” (Approved).
- 2) The QAAW representative shall log all items identified as “Move to Stock” on the inspection sheet.
- 3) All Items identified as “Move to Stock” shall be identified as such that all affected items status is evident to all employees with a stamp indicating status.

Return to PRMT: “Rejected”

- 1) Materials, parts, tools or equipment that have been inspected and found to be non-compliant shall be marked as “Rejected” and the appropriate MDR published.
- 2) The QAAW representative shall log all items identified as “Rejected” on the inspection sheet.
- 3) All Items marked as “Rejected” shall be identified as such that all affected items status is evident to all employees with either a stamp or tag indicating status.
- 4) QAAW shall generate a Material Discrepancy Report (MDR) providing a written notification of “Rejected” material to the following offices/people as applicable:
 - CENV Chief Engineer and Managers
 - CMNT General Superintendent and Assistant General Superintendents
 - PRMT Procurement Manager and Buyer
 - PRMT Manager of Warehouse Distribution



- SRML Director and Managers
 - QAAW Director and Managers
- 5) PRMT shall be responsible to move all items.

Quality Hold: “QAAW Hold”

- 1) Any materials, parts, tools or equipment that have been inspected, but need further clarification shall be marked as “QAAW Hold”.
- 2) After an item has been through the receiving inspection process, and further documentation or drawings are required to determine the items disposition, a completed Hold Tag shall be attached to the item or material and the invoice stamped with “QAAW Hold”.

All QAAW Hold items shall not be held for longer than a 72 hour period and shall change their disposition to “Move to Stock” or “Rejected” for PRMT disposition.

- 3) Items marked as “QAAW Hold” shall be identified so that all affected items with either a stamp or tag indicating their status is evident to all employees.
- 4) The QAAW representative shall procure missing information by coordinating with the other offices as required. Once the additional information has been obtained, the QAAW representative shall inspect the items to the specifications and provide proper disposition of the suspected items.

If the item is Accepted:

- 1) Lift the QAAW Hold.
- 2) Change the status to “Move to Stock” and record the disposition on the inspection sheet.
- 3) Cross out the QAAW Hold stamp, sign and date the cross out, and replace it with a “QAAW Move to Stock” stamp.

If the item(s) is Rejected:

- 1) Lift the QAAW Hold.
- 2) Cross out the QAAW Hold stamp on the invoice, sign and date the cross out, and replace it with a “QAAW Rejected” stamp.



- 3) Remove the “Hold Tag” and replace it with a “Reject Tag” and attach a copy of the MDR.
- 4) Change the status to “rejected” and record the disposition on the inspection sheet.

Tools and Equipment

IMPORTANT NOTE: All Tools and Equipment used in QAAW shall be considered REFERENCE ONLY once they pass their 1 year warranty/calibration period. If any measurements are required to establish performance data against specification for acceptance or rejection, calibrated equipment shall be obtained to perform such measurements as required.

1. Calipers:
Calipers typically use a precise slide movement for inside, outside, depth or step measurements. Some caliper types are used for comparing or transferring dimensions.
2. Rules and Scales:
Rules are flat, graduated scales used for length measurement. For OEM applications, digital or electronic linear scales are often used.
3. Thread Gages:
Thread gages are dimensional instruments for measuring and/or verifying thread size, pitch or other parameters.
4. Micrometers :
Micrometers are instruments for precision dimensional gauging consisting of a ground spindle and anvil mounted in a C-shaped steel frame. Noncontact laser micrometers are also available.



7. FILLING OUT A QAAW REJECTED OR HOLD TAG

QAAW Hold Tag

The following information, at a minimum, shall be provided on the Hold Tag:

Report #: The Hold Tag Number. The tag number is obtained from the Hold Tag Log.

Date: The current date.

QAAW Officer: Name of the person filling out the tag.

Item/Part Description: A brief description of the item or part being placed on hold.

WMATA Part #: The WMATA part number of the item or part being placed on hold.

Manufactures Part #: The Manufactures or Suppliers part number of the item or part being placed on hold.

QA Description: A brief explanation for the reason the item or part is being placed on hold.

QAAW Rejected Tag

The following information, at a minimum, shall be provided on the Reject Tag:

Report #: Use the MDR Number. The MDR number is obtained from the MDR form.

Date: The current date.

QAAW Officer: Name of the person filling out the tag.

Item/Part Description: A brief description of the item or part being rejected.

WMATA Part #: The WMATA part number of the item or part being rejected.

Manufactures Part #: The Manufactures or Suppliers part number of the item or part being rejected.

QA Description: A brief explanation for the reason the item or part is being rejected.



8. ATTACHEMENTS AND SUPPORTING DOCUMENTATION

Attachments:

- A. Sample Move to Stock, Reject and Hold Tags
- B. Sample Quality Stamps
- C. Rail Storerooms
- D. Inspection Sheet
- E. Acceptable Quality Level (AQL)

NonConforming Materials

Procedure #113-07

Quality Hold and Containment

Procedure #113-01

Supplier Shipping and Delivery Requirements

Procedure #113-19

QAAW Monitoring & Measuring Devices

Procedure #113-20



Attachment A: Sample QAAW Move To Stock, Reject and Hold Tags

The image displays three sample QAAW (Quality Assurance and Acceptance) tags, each with a distinct color and a specific title. Each tag is a form with a header section, a table for inspection data, and a section for description and remarks.

- Green Tag: QAAW MOVE TO STOCK**
 - Header: Report Number, QAAW No., Date, Plant Location, QAAW Issuing Office
 - Table: 10 columns for inspection data (1-10)
 - Form Fields: Item Part Description, Item Part Serial No., Item Serial No., Manufacturer's Part No., QAAW Move to Stock Description, Remarks
 - Bottom: 32713 12/06
- Red Tag: QAAW REJECT**
 - Header: Report Number, QAAW No., Date, Plant Location, QAAW Issuing Office
 - Table: 10 columns for inspection data (1-10)
 - Form Fields: Item Part Description, Item Part Serial No., Item Serial No., Manufacturer's Part No., QAAW Reject Description, Remarks
 - Bottom: 32713 12/06
- Yellow Tag: QAAW HOLD**
 - Header: Report Number, QAAW No., Date, Plant Location, QAAW Issuing Office
 - Table: 10 columns for inspection data (1-10)
 - Form Fields: Item Part Description, Item Part Serial No., Item Serial No., Manufacturer's Part No., QAAW Hold Description, Remarks
 - Bottom: 32713 12/06



QAAW MOVE TO STOCK

QAAW MOVE TO STOCK

QAAW HOLD

QAAW HOLD

QAAW REJECT

Attachment B: Sample Quality Stamps



Attachment C: Sample Rail Storerooms

Metro’s Storerooms

There are 23 Metro storerooms. The Metro Supply Facility (MSF) is the major wholesale store and the remainders are Satellite Storerooms. Some of the storerooms are operated by PRMT, some by BMNT and some by TIES.

The following is a listing of the storerooms within the departments, listing locations and telephone numbers.

PRMT Main Storeroom - Storeroom Number, Address & Phone #

Metro Supply Facility (MSF) - 400 8201 Ardwick-Ardmore Rd. Landover, MD 20785 202/962.5519	Plant Maintenance Ctr. (PMC) -300 3101 Eisenhower Ave Alexandria, VA 22314 202/962.5059	
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TIES Storerooms - Storeroom Number, Address & Phone #

Brentwood - 200 601 T St. NE Washington, DC 20018 202/962.5912	L’Enfant Plaza-250 600 Block D St. SW Washington, DC 20024 202-962-2210	Greenbelt - 251 5801 Sunnyside Ave Beltsville, MD 20705 202/962.5801
Branch Ave-252 5700B Capital Gateway Drive Suitland, MD 20746 202-962-5082	Shady Grove – 253 15903 Somerville Dr. Rockville, MD 20855 202/962.2211	West Falls Church - 254 7251-B Idylwood Rd. Falls Church, VA 22043 202/962.2403
Alexandria - 255 3201 Eisenhower Ave. Alexandria, VA 22314 202/962.5296	New Carrollton Inspection - 259 4300 Garden City Dr. Hyattsville, MD 20785 202/962.2826	



Attachment D: Sample Receiving Inspection Sheet

WMATA P/N: _____				Receiving Inspection Sheet						Vendor: _____																								
Part Desc: _____				<table border="1"> <tr> <td>Lot Size</td> <td>1-25</td> <td>26-50</td> <td>51-90</td> <td>91-150</td> <td>151-200</td> <td>201-500</td> <td>501-1200</td> <td>1201-3200</td> <td>3201-10,000</td> <td>10,001 & over</td> </tr> <tr> <td>Sample Size</td> <td>3</td> <td>5</td> <td>6</td> <td>7</td> <td>10</td> <td>11</td> <td>15</td> <td>18</td> <td>22</td> <td>29</td> </tr> </table>						Lot Size	1-25	26-50	51-90	91-150	151-200	201-500	501-1200	1201-3200	3201-10,000	10,001 & over	Sample Size	3	5	6	7	10	11	15	18	22	29	Vendor P/N: _____		
Lot Size	1-25	26-50	51-90	91-150	151-200	201-500	501-1200	1201-3200	3201-10,000	10,001 & over																								
Sample Size	3	5	6	7	10	11	15	18	22	29																								
Date	P0#	Serial#	Packing Slip#	QAAW Inspector	Lot Size	Sample Size	Number of Discrep.	Inspection Type	Result - Approved/Rejected/Hold	Action	Comments																							
4/24/2008	34684	1001245	34684	E. Condon	100	7	1	Physical Inspection	Rejected	Return to PRMT	Examples																							

SAMPLE



Attachment E: Sample Acceptable Quality Level (AQL)

The Acceptable Quality Level (AQL) is the maximum defective rate that, for purposes of sampling inspection, can be considered satisfactory as a process average.

Aim - to induce a supplier to maintain a process average at least as good as the specified acceptance AQL, while at the same time providing an upper limit for the risk to the consumer of accepting the occasional poor lot.

ZERO-BASED ACCEPTANCE SAMPLING PLAN

"A Indicates that the Entire Lot Must be Inspected"

Acceptable Quality Level (AQL)=0, 1 discrepancy rejects the entire lot

LOT SIZE	0.01%	0.02%	0.03%	0.04%	0.07%	0.10%	0.15%	0.25%	0.40%	0.65%	1.00%	1.50%	2.50%	4.00%	6.50%	10.00%
1-8	A	A	A	A	A	A	A	A	A	A	A	A	5	3	2	2
9-15	A	A	A	A	A	A	A	A	A	A	13	8	5	3	2	2
16-25	A	A	A	A	A	A	A	A	A	20	13	8	5	3	3	2
26-50	A	A	A	A	A	A	A	A	32	20	13	8	5	5	5	2
51-90	A	A	A	A	A	A	80	50	32	20	13	8	7	6	5	4
91-150	A	A	A	A	A	125	80	50	32	20	13	12	11	7	6	5
151-280	A	A	A	A	200	125	80	50	32	20	20	19	13	10	7	6
281-500	A	A	A	315	200	125	80	50	48	47	29	21	16	11	9	7
501-1200	A	800	500	315	200	125	80	75	73	47	34	27	19	15	11	8
1201-3200	1250	800	500	315	200	125	120	116	73	53	42	35	23	18	13	9
3201-10,000	1250	800	500	315	200	192	189	116	86	68	50	38	29	22	15	9
10,001-35,000	1250	800	500	315	300	294	189	135	108	77	60	46	35	29	15	9
35,001-150,000	1250	800	500	490	476	294	218	170	123	96	74	56	40	29	15	9
150,001-500,000	1250	800	750	715	476	345	270	200	156	119	90	64	40	29	15	9
500,001 & Over	1250	1200	1112	715	556	435	303	244	189	143	102	64	40	29	15	9

ATTACHMENT 6:


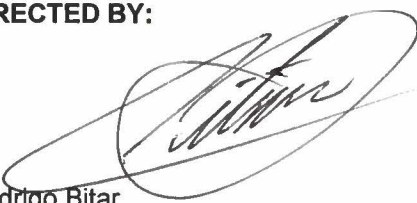
**113-01 Rev 00 WMATA Quality Assurance
and Warranty Procurement**

Washington Metropolitan Area Transit Authority



**DEPARTMENT OF TRANSIT
INFRASTRUCTURE & ENGINEERING
SERVICES**

Standards and Requirements Procedure

CATEGORY: Standards and Requirements		TOPIC: Quality Assurance and Warranty Requirements	
SRP NO.: 113-01	TITLE: WMATA QUALITY ASSURANCE AND WARRANTY PROCUREMENT REQUIREMENTS		
LATEST REVISION NO. 00	ORIGINATION DATE 01/24/2014	DATE REVIEW DUE 01/24/2015	EXPIRATION DATE None
LATEST REVISION DATE: 01/24/2014	LATEST REVIEW DATE:		
OAP APPLIES TO: Department of Transit Infrastructure and Engineering Services			
DEPARTMENT/OFFICE/INDIVIDUAL OF PRIMARY RESPONSIBILITY (OPR): QAAW / Director of Quality Assurance and Warranty			
EFFECTIVE PAGES/NOTES: All			
DISTRIBUTION: Transit Infrastructure & Engineering Services Offices (TIES)		COORDINATION WITH OTHER PUBLICATIONS:	
APPROVAL:  Michael DiNatale Manager, QAAW 2/7/14		DIRECTED BY:  Rodrigo Bitar AGM, TIES 2-8-14	

1. PURPOSE

This section shall define the Washington Metropolitan Area Transit Authority's general quality assurance and warranty standards for the procurement of systems, products, materials and services intended for use in all WMATA TIES departments. It provides the list of standards that relate to the various rail car systems and the associated products and materials provided. It is the Supplier's responsibility for ensuring compliance with standards for the systems and components within their respective scope of supply.

This section shall be included in all Requests for Quotation (RFQ) or Purchase Orders (PO), or within the individual subcontract for a particular system, product, material, system or service. Acknowledgement of the Quotation, Purchase Order or Contract constitutes the Supplier's acceptance of the applicable requirements of this standard unless specific exceptions are noted, as part of the confirmation and accepted by the Authority.

2. SCOPE

This section covers the definitions, quality assurance and warranty requirements with specific contract deliverables (CDRL) that need to be provided in accordance with the bidding process. This section includes:

- Definitions
- Quality Requirements
 - General
 - Quality Assurance Program Plan
 - Quality Assurance Inspection And Test Plan
 - Quality Assurance Manual
 - Certification Of Conformance
 - First Article Inspection, FAI
 - Pre Shipment/Source Inspection, PSI
 - Authority Acceptance
 - Shipment of Material
- Warranty Requirements
 - General
 - Special Provision
 - Manufacturers Warranties
 - Warranty Support

3. DEFINITIONS

For purposes of this section, the following definitions shall apply:

- 3.1. Contractor -- Any organization providing the Authority with the Rail Car Systems or sub-systems with materials, products, equipment and/or services
- 3.2. Supplier -- Any organization providing the Authority with materials, products, equipment and/or services
- 3.3. Subcontractor -- A class of Supplier that is hired by the Supplier and/or Contractor, covered by a subcontract whose products are designed or specifically adapted to meet the operational requirements described by the Authority's rail car project specifications
- 3.4. Authority -- Washington Metropolitan Area Transportation Authority (WMATA)

Special note: The use of the word Contractor, Subcontractor or Supplier from this point forward in the document shall be synonymous.

4. QUALITY REQUIREMENTS

4.1. GENERAL

The Contractor shall plan and implement a Quality Assurance (QA) Program to ensure delivery of a quality product under the terms of this Contract. The elements of the program shall be imposed on the Contractor's entire organization and all manufacturers, subcontractors, and suppliers that perform Contract work. The QA Program shall ensure that all aspects of the work performed are in conformance with the design, materials, and workmanship requirements and that those requirements are performed in a timely manner. The QA Program shall also require the Contractor to document inspection of design and manufacturing operations.

The Contractor shall be solely responsible for all of the quality assurance functions required by this Contract. The Contractor shall ensure Contract compliance by subcontractors and suppliers. Surveillance of subcontractors shall include sampling and review of products, records, procedures, processes, manufacturing operations, and Quality Control methods. The Contractor shall maintain documented evidence of these activities and make it available to the Authority upon request. Additionally, WMATA reserves the right to audit the Contractor at any time.

4.2. QUALITY ASSURANCE PROGRAM PLAN

All Contractor, subcontractor, and supplier quality assurance efforts, including the Quality Assurance Program Plan of each, shall be in compliance with the requirements of ISO 9001:2008, FTA Quality Assurance and Quality Control Guidelines (FTA-IT-90-5001-02.1 February 2002), and ANSI/ASQ Q9001, latest revision. Where those requirements differ from the terms of the Contract, the more stringent requirements shall take precedence.

The Contractor shall submit a work-specific Quality Assurance Program Plan for approval (**CDRL QA1**). The submittal shall provide objective technical evidence of the adequacy of the Contractor's Quality Assurance Program to assure product compliance. This Quality Assurance Program Plan shall regulate procedures, methods, and processes to ensure compliance with all Contract requirements. Any procedures referenced within the contractor's Quality Assurance Program Plan should be submitted as well.

As a condition of having the Quality Assurance Program Plan approved, the Contractor shall incorporate written procedures defining methods to implement and maintain its QA Program. Document control, engineering, procurement, manufacturing, inspection, test plans and procedures shall be developed using the methods and procedures found in the Contractor's Quality Assurance Manual. It shall include a company policy statement that clearly defines its objectives and its commitment to quality.

The Plan shall also define the authority of the Quality Assurance Department, reflecting its independence from the Production function, and also establish quality assurance responsibilities for every department. An organization chart shall be included to show the reporting relationships among all management staff. The Plan shall clearly indicate that quality assurance personnel shall have sufficient authority and organizational freedom to ensure that a nonconforming or discrepant product or service will not be delivered to the Authority. The responsibility for the quality assurance function shall be so placed in the Contractor's own organization so that meeting schedule and cost projections will not compromise the quality of products or services delivered under the terms of the Contract.

The Plan shall also contain or refer to a comprehensive collection of forms for documentation of quality control activities. Forms shall be designed to ensure compliance of materials, processes, personnel, and products to the approved design drawings and applicable specifications

4.3. QUALITY ASSURANCE INSPECTION AND TEST PLAN

The Quality Assurance Program Plan shall include an Inspection and Test Plan (**CDRL QA2**). The Inspection and Test Plan shall show major manufacturing and inspection milestones on a schedule, including planned dates for submittals, and be integrated with the integrated Program Phase-Gate Process Diagram (IPPPD Section 2.5.1). This plan shall identify Contractor inspection points and Authority witness and hold point inspections. The Plan will be used by the Authority's quality assurance representative to identify the Contractor's inspection and test witness points. The Inspection and Test Plan, and its attendant schedule, shall be updated and submitted to the Authority for disposition as milestone dates or other significant items change.

4.4. QUALITY ASSURANCE MANUAL

The Contractor's and major subcontractor's Quality Assurance Manual shall be submitted for Authority review, and used as a reference when performing Authority inspections, assessments, and audits (**CDRL QA3**). Any procedures referenced within the contractor's Quality Assurance Manual should be submitted as well.

The following Quality Assurance Requirements are required to be submitted as described above:

CDRL QA1 Quality Assurance Program Plan
CDRL QA2 Inspection and Test Plan
CDRL QA3 Quality Assurance Manuals

4.5. CERTIFICATION OF CONFORMANCE

Certificates of conformance shall accompany all product shipments as follows:

- 4.5.1 For the Shipment, the Supplier shall provide a Certificate of Conformance/Compliance with each lot shipped to the Authority, that the items shipped meet all the applicable requirements, including the subcontract, purchase order, technical specification, this document and/or any referenced documents and standards.
- 4.5.2 For raw material shipments, certificates shall include the actual Test Report Values for Chemical and Physical requirements of the material. They shall also include results of the Non-Destructive tests where pertinent.
- 4.5.3 For materials made to Authority or Supplier drawings, the certificate shall indicate conformance to the drawing and other applicable requirements. The statement shall be supported by Certificates and/or Test Reports on file and available for Authority review at the Supplier's facility or copies shipped to Authority with each shipment as required by the procurement document and/or referenced specifications and requirements.

- 4.5.4 For items made where Authority has furnished material for the manufacture of those items, the certificate shall state that Authority furnished material was used and no substitution was made.
- 4.5.5 Acceptance Test Data, when requested by RFQ, Purchase Order, Drawing or Authority Technical Specification shall be supplied with each unit or shipment, as applicable.
- 4.5.6 For Proprietary Items, the Supplier shall furnish, upon request by the Authority, the applicable Supplier's Drawings and/or Specifications sufficient to definitively provide Receiving Inspection Criteria.
- 4.5.7 All fasteners must comply with The Fastener Quality Act (the Act) (15 U.S.C. 5401 et seq., as amended by Public Law 104-113, Public Law 105-234, and Public Law 106-34).
- 4.5.8 Flame, Smoke and Toxicity Reports in compliance with the Authority's requirements in the specification, unless a waiver or partial waiver is given by the Authority.

4.6. FIRST ARTICLE INSPECTION, FAI

A First Article Inspection, FAI, on the first Production Unit produced is required prior to the start of production and shall be done in accordance with WMATA QAAW procedure #113-06, First Article. The first production unit must be from a factory production set up and ten samples must be provided, from which the Authority will pick one unit for the FAI. In cases where size, complexity and/or cost prohibits the Contractor from providing ten units, a written request for a smaller sample size shall be submitted to WMATA QAAW for approval.

4.7. PRE SHIPMENT/SOURCE INSPECTION, PSI

When inspection and test, by the Authority's representatives, at the Supplier's facility is required, to verify conformance to requirements on units ready for shipment, the Supplier shall notify the Authority of availability of units for PSI not later than 20 calendar days prior to the planned PSI date. The notice shall be in the format identified by the Authority (formal letter and/or email) and sent to the PM and/or COTR with the notification date for the PSI with the equipment to be inspected. The notice shall come from the Manufacturer and/or OEM as applicable. Internally to the Authority, the PM and/or COTR shall notify QAAW of the PSI event via email and/or internal memo.

Any incorrect or incomplete information received can cause a delay to the scheduling process. Reschedule cost shall be covered by the Subcontractor/ Supplier. Objective evidence shall be available prior to the PSI of the successful completion of all required inspections and tests.

The Supplier shall make available to the Authority's representative the PSI approved inspection and test procedures, approved drawings and other required certifications, test and inspection data and documents, in addition to the tools and test equipment

required to repeat any inspections and/or tests required by the Authority's representatives. All serial number identification required by the Authority must be presented (approved excel spreadsheet burned on CD) at the time of source inspection and shipped to the Authority for the next business day.

All PSIs will be conducted using the Authority's source inspection procedure. Issues resulting from the PSI shall be resolved through the Authority's Quality Assurance and Warranty Organization (QAAW). Where design and/or engineering issues are discovered, WMATA's Engineering Department (CENV) shall resolve. Note, unless otherwise specified, sampling is applied at PSI events, thus the approval for shipment does not relieve the supplier of responsibility for subsequent identification of supplier attributable defects that were undetected.

The Subcontractor/Supplier shall perform the above activity against their sub-suppliers through the life of the contract. Objective evidence shall be available to show compliance to the above program.

4.8. AUTHORITY ACCEPTANCE

Acceptance shall be at the Authority Facility or as otherwise specified for units designated for Pre-Shipment Inspection (PSI). Any units or lots determined as non-conforming shall be returned to the Supplier unless the situation requires an alternative method be developed for replacing the defective lot. The authority inspects per an Acceptable Quality Level (AQL) = 0, One (1) discrepancy rejects the entire lot. QAAW shall use the zero-based acceptance sampling plan with 4.00% as a sample average per OAP #113-05. The Authority shall not be obligated to conduct 100% inspection when sampling reveals a lot rejection. It shall be the supplier's responsibility to determine conforming product on a rejected lot and produce results of that evaluation to the Authority for approval.

4.9. SHIPMENT OF MATERIAL

The contractor and/or subcontractor packaging of material to be ship to the Authority shall be done in accordance with QAAW procedure #113-19 – Supplier Shipping and Delivery Requirements.

5. WARRANTY REQUIREMENTS

5.1. GENERAL

Contractor and/or Subcontractor warrants that during all warranty periods described hereunder (collectively, the "Warranty Period"), the Subcontractor Items and the Subcontractor Work will (i) comply with the requirements of this Subcontract, the WMATA Contract and the Technical Provisions, (ii) will be free of any patent or latent defect of design, material or workmanship and (iii) will be fit for their intended purposes (the "Warranty"). Without limiting any longer Warranty Period that may be required pursuant to this Subcontract, the Warranty Period applicable to all Subcontractor Items and Subcontractor Work shall be coterminous with any warranty period applicable to the WMATA Contract with respect to such Subcontractor Items and/or Subcontractor Work. The Contractor and/or Subcontractor shall follow the Authority warranty procedure per QAAW procedure # 100-8 (113-12) QAAW Warranty Management Process.

Warranty Period is defined by the contract and its intent.

5.2. SPECIAL PROVISIONS

Contractor and/or Subcontractor agree that the provisions of Article 12 of the WMATA Special Provisions entitled "Warranty" are incorporated into this Subcontract as if fully restated herein and shall be fully applicable to the Subcontractor Items to the extent necessary for the Contractor to meet its obligations under the WMATA Contract. Subcontractor shall comply with the provisions of Article 12 of the WMATA Special Provisions as if it were the Contractor. The Warranty Period for any Subcontractor Items and Services rejected by the Contractor shall recommence anew from the acceptance date of such Subcontractor Items and Services as corrected, modified, repaired or replaced.

5.3. MANUFACTURERS' WARRANTIES (If specified in the contract)

Contractor and/or Subcontractor hereby agrees (i) to obtain all manufacturers' warranties and guarantees of all Subcontractor Items, equipment and materials required by this Subcontract in the names of the Authority and (ii) to deliver such manufacturers' warranties and guarantees to the Authority. Delivery of such manufacturers' warranties and guarantees shall in no respect relieve the Subcontractor of its Warranty obligations under this Subcontract, and the failure by a particular manufacturer to honor any such guarantee or service obligation or a failure by the Subcontractor to secure any such rights from the manufacturer for the Customer shall not prevent the enforcement of such rights by the Authority or the Customer against the Subcontractor.

No such manufacturer's warranty or guarantee referenced in paragraph above shall not expire prior to the date of expiration of the Warranty Period for the Subcontractor Items, nor shall any such manufacturer's warranty or guarantee contain any terms substantially different from those required under this Subcontract.

5.4. WARRANTY SUPPORT

As applicable to the scope of work and the equipment provided under the contract, the Contractor's Commissioning Manager SHALL be available at the Authority site throughout the warranty period and SHALL make available, in a timely manner (as per the WMATA's Conformed Contract with the individual vendor) , sufficient technical resources for warranty actions necessary to return the systems, products, materials and services intended for use by WMATA in the original intended working condition (new) without unreasonable delay.

For contracts and/or purchase orders of items or equipment that are related to small parts, this level of warranty support shall not be required. If necessary, the PM and/or COTR will provide an exemption letter to the Supplier and/or Manufacturer of the items from these requirements. The Authority will work directly with the Supplier and/or Manufacturer for the warranty support needed. This will be done on a case by case basis and communicated via letter through the PM and/or COTR office in coordination with QAAW.

The Contractor's responsibilities during the warranty period are defined in the Special Provisions Section 12. A warranty plan SHALL be submitted for review and approval. The plan SHALL identify the proposed approach to providing warranty support, addressing such issues as personnel, locations, response time, inspections, warranty spares, etc.

CDRL WA1 Warranty Plan

6. REFERENCE DOCUMENTATION

The following reference documents should be followed in accordance with this requirement:

- QAAW procedure #113-05, Receiving and Inspection
- QAAW procedure #113-06, First Article
- QAAW procedure #113-19 – Supplier Shipping and Delivery Requirements
- QAAW procedure # 100-8 (113-12) QAAW Warranty Management Process

7. CONTRACT DELIVERABLES CDRLs List

The referenced CDRLs indicated below (and as indicated within the text of this document) will be required for all major contracts and/or at the discretion of the PM and/or COTR with concurrence from QAAW. For contracts that are related to small parts and/or purchase orders of items or equipment that do not require this level of documentation, the PM and/or COTR will exempt the Manufacturer and/or OEM from these requirements. A letter from the authority may be provided to communicate this exemption.

- | | |
|--------------------|--------------------------------|
| 1. CDRL QA1 | Quality Assurance Program Plan |
| 2. CDRL QA2 | Inspection and Test Plan |
| 3. CDRL QA3 | Quality Assurance Manuals |
| 4. CDRL WA1 | Warranty Plan |

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY SUPPLY AND SERVICE CONTRACT IFB NO.
CQ15126/RSS