



**Invitation
For
Bids
(Non-Federal)**

**Motor Vehicle Record
Services**

IFB CQ18227

Date: July 27, 2018

Bid Due Date: August 22, 2018

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Washington Metropolitan Area Transit Authority
IFB CQ18227

July 27, 2018

SUBJECT: IFB CQ18227

Dear Sir/Madam:

The Washington Metropolitan Area Transit Authority (WMATA) is seeking bids from qualified contractors to provide motor vehicle records (MVR) monitoring services to WMATA employees.

A pre-bid conference will not be held. Your company's bid must be submitted in accordance with the IFB's terms and delivered to WMATA's, Office of Procurement and Materials, 600 Fifth Street, NW, Room 3C-02, Washington, DC 20001-2651, no later than 2:00 p.m. on Wednesday August 22, 2018.

If you have any technical, contractual, or administrative questions, please e-mail them to RSo@wmata.com no later than close of business, August 7, 2018. WMATA will provide written answers by e-mail to all those who obtain the IFB and provide their e-mail addresses.

The following documents must be completed, signed and submitted with your company's bid:

Price Schedule;
Solicitation, Offer & Award form;
Pre-Award Survey;
Representations and Certifications;
Certificate(s) of Insurance
Information Security Posture Questionnaire (See this in the Part III after Scope of Work)
Appendix C (if applicable)

Sincerely,



Monique M. Anderson
Contracting Officer
Office of Procurement and Materials

INTRODUCTORY INFORMATION
SOLICITATION CERTIFICATIONS PAGE

IFB CQ18227
Motor Vehicle Record Services

APPROVED FOR RELEASE



Rashelle Thomas Anderson
Project Manager/Office Designee

7/12/2018

Date



Monique M. Anderson

Contracting Officer

7/17/18

Date

END OF SECTION

**Washington Metropolitan Area Transit Authority
IFB CQ18227**

**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 company's bid for each of the following common responsiveness problems:

1. Have you checked your company's bid? Are all items included and checked for math errors in your Price Schedule?
2. If amendments are included, has your company acknowledged and recorded the number of amendments on the bid envelope and bid form?
3. Has your company signed and submitted the Solicitation, Offer & Award page(s)?
4. Has your company properly completed and checked the appropriate box for each Certification and Representation? Have you included the Representations and Certifications with your company's bid?
5. Has your company completed and included the Pre- Award Data form?
6. Has your company complied with the Appendix C requirement (if applicable)?
7. Has your company marked the bid envelope with solicitation number and addressed it to the Contract Administrator?
8. Has your company completed and signed the Information Security and Posture Questionnaire?
9. Has your company included copies of any required Certificate(s) of Insurance?

Note: 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 other jurisdictions.

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;
- Ability to sign up for electronic payment option; and
- Ability to electronically reset user id and password.

Any questions regarding registration may be sent to clm@wmata.com.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY
 SUPPLY AND SERVICE CONTRACT IFB CQ18227



WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY
SOLICITATION, OFFER AND AWARD

CONTRACT NO. CQ18227	SOLICITATION NO. IFB CQ18227 <input checked="" type="checkbox"/> ADVERTISED <input type="checkbox"/> NEGOTIATED	DATE ISSUED July 27, 2018	ADDRESS OFFER TO OFFICE OF PROCUREMENT Office of Procurement 600 Fifth Street NW Washington, DC 20001
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SOLICITATION

Sealed offer in original and TWO (2) copies for furnishing the supplies or services in the schedules will be received at Authority until 2:00 P.M. Local time on Wednesday, August 22, 2018.

If this is an advertised solicitation, offers will be publicly opened at that time.
CAUTION – LATE OFFERS: See paragraph 6 of Solicitation Instructions.

All offers are subject to the following:

1. The Solicitation Instructions that are attached.
2. The Terms and Conditions that are attached.
3. The Price 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 e-mail _____
Bidder's phone number _____

Bidder's fax number _____

PRICE SCHEDULE

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
1	Motor Vehicle Record Services	Estimated 5,000-8,000	Per Person	\$	\$
(Continued on the attached pages)					

DUN & BRADSTREET ID NUMBER: _____

BIDDER

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

PRICE SCHEDULE CONTINUATION SHEET

BASE YEAR

Item No.	Item Description	Estimated Quantity	Unit of Measure	Unit Price	Extended Price (Unit Price X Estimated Quantity)
1	BASELINE or LOOKBACK MVR's	8,000	Per Person	\$	\$
2	ANNUAL MONITORING (8,000 X12 Months)	96,200	Per Person	\$	\$
3	REVIEW ACTUAL MVR's (Actuals are Estimated per Year)	800	Per Person	\$	\$
				TOTAL Base Year =	\$

Except for the State Access Fees (If Any), all rates shall be fully loaded, meaning that all direct and indirect costs are included, including profit, overhead, Service Fees, Communications, G&A, etc. All expenses, including, but not limited to photocopying shall be included. There shall be no adjustment of unit price/rates for variation in quantities and the final quantities ordered. ALL estimated quantity are not a guarantee of the actual quantity to be required or ordered, It does not constitute a commitment on the part of the Authority to procure services at the estimated level.

 Authorized Name & Signature

 Company Name

 Date

 WMATA Vendor Number (If Available)

PRICE SCHEDULE CONTINUATION SHEET (Continuation)

Option Year 1

Item No.	Item Description	Estimated Quantity	Unit of Measure	Unit Price	Extended Price (Unit Price X Estimated Quantity)
1	BASELINE or LOOKBACK MVR's	8,000	Per Person	\$	\$
2	ANNUAL MONITORING (8,000 X12 Months)	96,200	Per Person	\$	\$
3	REVIEW ACTUAL MVR's (Actuals are Estimated per Year)	800	Per Person	\$	\$
				TOTAL Option Year 1 =	\$

Except for the State Access Fees (If Any), all rates shall be fully loaded, meaning that all direct and indirect costs are included, including profit, overhead, Service Fees, Communications, G&A, etc. All expenses, including, but not limited to photocopying shall be included. There shall be no adjustment of unit price/rates for variation in quantities and the final quantities ordered. ALL estimated quantity are not a guarantee of the actual quantity to be required or ordered, It does not constitute a commitment on the part of the Authority to procure services at the estimated level.

 Authorized Name & Signature

 Company Name

 Date

 WMATA Vendor Number (If Available)

PRICE SCHEDULE CONTINUATION SHEET (Continuation)

Option Year 2

Item No.	Item Description	Estimated Quantity	Unit of Measure	Unit Price	Extended Price (Unit Price X Estimated Quantity)
1	BASELINE or LOOKBACK MVR's	8,000	Per Person	\$	\$
2	ANNUAL MONITORING (8,000 X12 Months)	96,200	Per Person	\$	\$
3	REVIEW ACTUAL MVR's (Actuals are Estimated per Year)	800	Per Person	\$	\$
				TOTAL Option Year 2 =	\$

Except for the State Access Fees (If Any), all rates shall be fully loaded, meaning that all direct and indirect costs are included, including profit, overhead, Service Fees, Communications, G&A, etc. All expenses, including, but not limited to photocopying shall be included. There shall be no adjustment of unit price/rates for variation in quantities and the final quantities ordered. ALL estimated quantity are not a guarantee of the actual quantity to be required or ordered, It does not constitute a commitment on the part of the Authority to procure services at the estimated level.

 Authorized Name & Signature

 Company Name

 Date

 WMATA Vendor Number (If Available)

PRICE SCHEDULE CONTINUATION SHEET (Continuation)

Option Year 3

Item No.	Item Description	Estimated Quantity	Unit of Measure	Unit Price	Extended Price (Unit Price X Estimated Quantity)
1	BASELINE or LOOKBACK MVR's	8,000	Per Person	\$	\$
2	ANNUAL MONITORING (8,000 X12 Months)	96,200	Per Person	\$	\$
3	REVIEW ACTUAL MVR's (Actuals are Estimated per Year)	800	Per Person	\$	\$
				TOTAL Option Year 3 =	\$

Except for the State Access Fees (If Any), all rates shall be fully loaded, meaning that all direct and indirect costs are included, including profit, overhead, Service Fees, Communications, G&A, etc. All expenses, including, but not limited to photocopying shall be included. There shall be no adjustment of unit price/rates for variation in quantities and the final quantities ordered. ALL estimated quantity are not a guarantee of the actual quantity to be required or ordered, It does not constitute a commitment on the part of the Authority to procure services at the estimated level.

 Authorized Name & Signature

 Company Name

 Date

 WMATA Vendor Number (If Available)

PRICE SCHEDULE CONTINUATION SHEET (Continuation)

Option Year 4

Item No.	Item Description	Estimated Quantity	Unit of Measure	Unit Price	Extended Price (Unit Price X Estimated Quantity)
1	BASELINE or LOOKBACK MVR's	8,000	Per Person	\$	\$
2	ANNUAL MONITORING (8,000 X12 Months)	96,200	Per Person	\$	\$
3	REVIEW ACTUAL MVR's (Actuals are Estimated per Year)	800	Per Person	\$	\$
				TOTAL Option Year 4 =	\$

Except for the State Access Fees (If Any), all rates shall be fully loaded, meaning that all direct and indirect costs are included, including profit, overhead, Service Fees, Communications, G&A, etc. All expenses, including, but not limited to photocopying shall be included. There shall be no adjustment of unit price/rates for variation in quantities and the final quantities ordered. ALL estimated quantity are not a guarantee of the actual quantity to be required or ordered, It does not constitute a commitment on the part of the Authority to procure services at the estimated level.

 Authorized Name & Signature

 Company Name

 Date

 WMATA Vendor Number (If Available)

--END OF PRICE SCHEDULE SECTION --

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SOLICITATION, OFFER AND AWARD

CONTINUATION SHEET

THE UNDERSIGNED ACKNOWLEDGES RECEIPT OF THE FOLLOWING AMENDMENTS

TO SOLICITATION **IFB CQ18227**

Amendment Number _____	Dated _____
Amendment Number _____	Dated _____
Amendment Number _____	Dated _____
Amendment Number _____	Dated _____
Amendment Number _____	Dated _____
Amendment Number _____	Dated _____

Failure to acknowledge receipt of all amendments may render the bid unacceptable.

Authorized Signature

Company Name

Date

SOLICITATION INSTRUCTIONS

IFB SOLICITATION INSTRUCTIONS

1. INTRODUCTION

- (a) The Authority seeks to award a contract to qualified contractor who can meet the requirements of the solicitation and provide motor vehicle records (MVR) monitoring services for WMATA employees. To that end, WMATA is issuing this Invitation for Bids (IFB) to solicit bids from qualified firms and individuals who can satisfy the requirements of the Contract.
- (b) Since 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 a firm fixed price Contract. Unless otherwise specified in the Price Schedule, the Authority reserves the right to make multiple awards pursuant to this solicitation.
- (d) **REQUIREMENTS CONTRACT.** This solicitation seeks to award a requirements Contract. A requirements Contract provides the Contractor with both the legal right and the legal duty to supply goods and/or services in an amount that is determined by WMATA's needs, rather than by a fixed quantity. Bidders are advised that the quantities of supplies and/or services specified in the Price Schedule are estimates only, included for purposes of price evaluation and in order to provide information to assist 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.
- (e) In the event that the Contractor is unable or otherwise fails to provide goods or services within the time frames required in this Contract, the Authority reserves the right to procure them from any other source and in any other manner it deems appropriate. Nothing contained herein shall be deemed to waive, modify or impair the Authority's right to treat such failure as a material breach of the Contractor's obligations pursuant to the "Default" article of this Contract, or to pursue any other remedy to which the Authority may be entitled pursuant to this Contract, at law or in equity.
- (f) **INDEFINITE QUANTITY.** Not Applicable

2. SERVICES TO BE SUPPLIED

Services are to be performed pursuant to this solicitation, must be provided in all respects as specified in the Contract and include the services to be furnished, together with any labor, materials or other work necessary for satisfactory and complete performance.

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 IFB and award of a Contract hereunder, must be directed to the Contract Administrator as follows: RSo@wmata.com.

A violation of this provision, deemed willful by the Authority, may result in a determination that an offeror is not responsible, and thus ineligible for award, for purposes of this and/or future Authority solicitations.

4. PREPARATION OF BIDS

- (a) Bidders shall furnish all information requested by the solicitation and, in so doing, are expected to examine the IFB and all referenced documents carefully. Failure to do so will be at bidder's risk.
- (b) The bidder shall sign the solicitation and print or type its name on the Price Schedule and on each continuation sheet if an entry has been made. Erasures or other changes must be initialed by the person signing the bid.
- (c) Bidders must state a definite time for performance of services unless otherwise specified in the solicitation.
- (d) Bidders should be aware that all prices for the work shall be deemed to include the cost of all work, labor and materials required by the Contract including, without limitation, delivery charges, insurance, bond premiums or any other expenses required by this Contract, as well as expenses associated with compliance with Federal, state or local laws or regulatory requirements.

5. EXPLANATIONS TO BIDDERS

- (a) Any explanation desired by a bidder regarding the meaning or interpretation of the solicitation or Contract including, without limitation, the terms and conditions, technical specifications or Scope of Work, and Contract drawings, must be requested in writing with sufficient time allowed for a reply to reach all bidders before the date that bids will be opened. Absent extraordinary circumstances, all inquiries must be transmitted in a time frame to ensure the Contracting Officer's receipt. **The due date for requesting explanation shall be on or before August 7, 2018.** All such requests must be submitted via e-mail or first class mail to the Contract Administrator identified in Paragraph 3. Include the IFB number and Contract title in any correspondence.
- (b) Any information that the Authority furnishes to a prospective bidder relating to this solicitation will be provided in writing to all prospective bidders in the form of an amendment if, in the Contracting Officer's judgment, the information is necessary to the preparation and/or submittal of proposals or lack of such information would be otherwise prejudicial to other prospective bidders. Bidders must acknowledge receipt of all amendments on the form provided.
- (c) Oral explanations, representations or instructions of any kind relating to the subject matter of this solicitation given at any time before award of the Contract by any employee, officer or agent of the Authority, will not be binding upon the Authority. The Authority does not assume responsibility for the accuracy of any such communication.
- (d) The failure of a prospective bidder to request an explanation will serve to preclude it from claiming any ambiguity, inconsistency or error that should have been discovered by a reasonably prudent bidder.

6. PRE-PROPOSAL CONFERENCE

Not Applicable.

7. AMENDMENTS PRIOR TO DATE SET FOR OPENING OF BIDS

- (a) The Authority reserves the right to amend any of 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. Copies of any such amendments as may be issued will be furnished in writing to all prospective bidders.
- (b) If, in the Contracting Officer's judgment, any amendment(s) would require material changes in bid quantities and/or price, the date set for bid opening may be postponed for such period that, in the Contracting Officer's opinion, will enable bidders to revise their bids. In such instances, the amendment will include an announcement of the new date for bid opening.
- (c) In the event of an amendment, all other terms and conditions of the solicitation shall remain unchanged.

8. ACKNOWLEDGMENT OF AMENDMENTS

Bidders are required to acknowledge receipt of all amendment(s) to the solicitation on the designated form to be submitted with their bid. Failure to acknowledge all amendments may cause the bid to be considered not responsive to the solicitation, which would require rejection of the bid.

9. 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 fully examine the IFB and all attached documents. Failure to do so will be at the bidder's risk.
- 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 the Authority will apply it, if payment is made within the discount period referenced in the bid.
- d. The Price Schedule may include prices for one or more items that are unit prices, lump sum bids, alternate prices, or a combination thereof. The Price Schedule expressly requires a bid on all items. Failure to do so will render the bid non-responsive.
- e. All bid prices shall be deemed to include the cost of all work, labor and materials required by the Contract, including without limitation, delivery charges, insurance, container charges or any other expenses incidental to the work, including, but not limited to expenses associated with compliance with Federal, state or local laws or regulatory requirements.

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

10. 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 must show the hour and date specified in the solicitation for receipt, the solicitation number, and the bidder's name and address. Failure to follow these instructions may result in a premature opening of, or a failure to open, a bid, for which, the Authority assumes 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.

11. RESPONSIVE BIDS

- a. Bidders are advised that a bid that is at variance or noncompliant with any provision of this solicitation, including a qualified or conditional bid, may be rejected as non-responsive.
- b. The Contracting Officer may reject a bid as nonresponsive if, in his or her judgment, the bid prices are materially unbalanced. Bid prices are materially unbalanced when they are significantly understated for one (1) or more element(s) of work and significantly overstated for other element(s) of work.
- c. The Authority reserves the right to waive minor errors or omissions in a bid and to deem it responsive.

12. 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 bid opening will not be considered, unless it is received before award 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 (For example, a bid submitted in response to a solicitation stating that bid opening will be on the 20th of the month must have been mailed by the 15th);
 - (2) Was sent by first class mail and the Contracting Officer determines that the late receipt was due solely to the Authority's mishandling after its timely delivery on the Authority's 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 (2) business days prior to the date

specified for opening of bids. The term "business days" excludes weekends and U.S. federal holidays; or

- (4) Is the only bid received.
- b. Any modification or withdrawal of a bid is subject to the same conditions as set forth in subparagraphs (a) (1) through (a) (3) above.
- c. The only acceptable evidence to establish the time of the Authority's receipt is the time/date stamp of that event on the bid wrapper or other documentary evidence of receipt maintained by the Authority.
- d. Notwithstanding subparagraph (a), 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 Contracting Officer's satisfaction and the representative signs a receipt for the return of the bid, before the opening of bids. The attempted withdrawal of a bid, received subsequent to bid opening and during the acceptance period set forth in paragraph 12, will not be honored and will be without effect.

13. 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 it shall be irrevocable and shall remain available to WMATA to award a Contract pursuant to this solicitation for not less than the acceptance period. The bidder's failure to furnish required documents and/or 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." The "cost to cover" is the difference between the bid price and the price WMATA ultimately pays for the work encompassed in this solicitation, whether through award of a Contract to another bidder pursuant to this solicitation or otherwise.

14. BID GUARANTEE

Not Applicable.

15. BID MISTAKE

- a. A bidder who seeks to withdraw its bid subsequent to bid opening due to a claimed mistake or error in its preparation shall notify the Contracting Officer, in writing, immediately upon realizing the mistake, but not later than three (3) business days

following bid opening. Such notification must set forth the details of, and explanation for, the claimed mistake. The Contracting Officer 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 Contracting Officer may award a Contract to an otherwise low bidder based upon the unit price, subject to the additional terms of this article.
- c. A bidder claiming a mistake shall, at the Contracting Officer's request, appear before one (1) or more designated Authority representative(s) to provide testimony and/or documentation that may include the bidder's computation sheets and calculations, to assist in the Authority's determination.
- d. Nothing contained herein shall preclude the Contracting Officer from allowing a bidder to cure a deficiency in an otherwise responsive bid where he or she determines that such deficiency is in the nature of a minor informality or irregularity.

16. REPRESENTATIONS, CERTIFICATIONS, AND ACKNOWLEDGMENTS

All bidders shall check or complete all applicable boxes or blocks, and provide all requested information, and signatures on the attached "Representations and Certifications" form. Bidders are reminded of the obligation to fully and faithfully complete the accompanying "Representations and Certifications" form that must be submitted with its bid. Failure to do so may result in the bid being rejected as nonresponsive.

17. LAWS AND REGULATIONS

Bidders are responsible for complying with any and all applicable State of Maryland, Commonwealth of Virginia, District of Columbia, and federal laws and regulations governing the services to be provided under this 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 where work will be performed.

18. ROYALTY INFORMATION

Not Applicable.

19. 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 which comprise the bid prices. In such instances, the apparent low bid may, at the discretion of the Authority, be subject to audit.

20. PRE-AWARD INFORMATION/BIDDER RESPONSIBILITY

- (a) In order to be eligible for award of a Contract, a bidder must affirmatively demonstrate to the Contracting Officer's satisfaction that it is responsible for purposes of this solicitation. Such demonstration must include a showing that it maintains the requisite integrity, overall

technical expertise and experience, (including prior performance on other Authority contracts or contracts with other government agencies), and sufficient financial resources to perform the Contract in a timely, satisfactory and appropriate manner. Failure to so demonstrate may result in rejection of the low bidder as not responsible. In such event, the second lowest bidder will be required to demonstrate its responsibility. This process will continue until a bidder successfully demonstrates that it is responsible for purposes of Contract award.

- (b) The Contracting Officer may conduct a pre-award survey and/or take other actions to obtain information regarding the bidder's responsibility, if it is the apparent low bidder. The bidder shall promptly supply information that the Contracting Officer requests regarding its responsibility in such manner and form as he or she requests.
- (c) Among other items, the apparent low bidder shall furnish the following when the Contracting Officer requests:
 - (1) A completed and signed "Pre-Award Evaluation Data" form (copy attached), including all referenced financial statements and information;
 - (2) Evidence of good standing in the System for Award Management (SAM) at www.sam.gov.
 - (3) Small Business Local Preference Program (SBLPP) data as set forth in Appendix C (if applicable). Failure to submit Appendix C forms may cause the proposal to be rejected. A bidder's failure to supply this information or otherwise fully cooperate with the Authority's inquiry may result in a determination that the bidder is not responsible for purposes of this solicitation and thereby ineligible for award.

21. PRE-AWARD RESPONSIBILITY MEETING

The Authority reserves the right to require that a pre-award meeting be held with the apparent low bidder prior to Contract award in order to further assist the Authority in determining the bidder's responsibility for purposes of award.

22. SITE VISIT/INSPECTION OFFEROR'S FACILITIES

A successful bidder must maintain sufficient facilities that will allow it to adequately perform Contract as specified herein. WMATA may make site visits prior to Contract award to examine the bidder's facilities to verify that necessary equipment, supplies, etc. are readily available.

23. BASIS FOR CONTRACT AWARD

- a. Award(s) of a contract hereunder will be made based solely on the lowest price as stated in the Price Schedule, to the bidder(s) (i) whose bid is judged to be responsive to the terms of the solicitation and (ii) who demonstrates to the Contracting Officer's satisfaction 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. The Authority reserves the right to reject all bids and cancel this solicitation at any time prior to award.
- d. A written award notice 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. PERFORMANCE/PAYMENT BONDS

The successful proposer shall, within the time established in this Contract and as a condition to issuance of a Notice to Proceed, may furnish performance and payment bonds, if applicable, on forms acceptable to the Authority and in the amounts indicated in this Contract.

26. 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.

27. OPPORTUNITY FOR DISADVANTAGED BUSINESS ENTERPRISES TO BID

The Washington Metropolitan Area Transit Authority hereby notifies all prospective bidders that it will affirmatively ensure that disadvantaged minority business enterprises will be afforded full opportunity to submit bids in response to this solicitation and will not be discriminated against on the basis of race, color, creed, sex, religion, national origin, disability, sexual preference and/or gender identity in consideration for award.

28. NOTICE OF PROTEST POLICY

- (a) The Authority's procedure for the administrative resolution of protests is set forth in Chapter 17 of the Procurement Procedures Manual. The procedures contain strict rules for filing a timely protest, for responding to a notice that a protest has been filed, and other procedural matters.
- (b) Alleged violations must be submitted to the Contracting Officer who will administratively decide the protest.
- (c) The United States District Courts for the Districts of Maryland, Virginia and the District of Columbia, and the local courts in Maryland, Virginia and the District of Columbia have jurisdiction over court actions concerning protest decisions.

29. WMATA'S TAX EXEMPT STATUS

- (a) Pursuant to Article XVI, Paragraph 78, of the Washington Metropolitan Area Transit Authority's 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) By submission of its bid, the bidder certifies that none of the taxes that the Authority is exempt from are included therein.

30. 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.

31. BRAND NAME OR EQUAL

Not Applicable.

32. REQUESTS FOR RECORDS

The Washington Metropolitan Area Transit Authority (WMATA), in the regular course of business, may receive from the public, including prospective vendors and bidders, requests for records on a variety of topics. It is WMATA's policy to make official agency records, including electronic records, available to the public, unless specifically prohibited by WMATA's policy or applicable laws.

- (a) "Records" means any existing writings, drawings, maps, recordings, tapes, film, microfilm, correspondence, forms, cards, photographs, optical disks, photo copies, and records stored by computer (electronic records) that are made or received by WMATA in connection with a public contract. A record does not include uncirculated personal notes, papers, electronic records and any other records that were created and retained solely as work papers for personal use of the Contracting Officer, Contract Administrator or other WMATA employee.
- (b) WMATA's contracting process allows for the release/posting of certain information concerning this Contract after its award. This includes the name of the successful bidder

and the amount of the award. This information is available on WMATA's website under "Business with Metro" or directly from the Contract Administrator.

- (c) Upon WMATA's request, the successful bidder shall be required to provide a redacted copy of its bid with confidential and proprietary information redacted.
- (d) After the award is announced, the winning proposal may be subject to release under WMATA's Public Access to Records Policy (PARP).
- (e) When WMATA determines that a bid will be of wide public interest, WMATA will post the redacted bid on its website. When WMATA receives three (3) or more requests for a successful bid, WMATA will post it on its website.
- (f) Requests for Records that are not made available during the procurement process will be submitted in accordance with the PARP. Requests must be in writing and sent by mail to the Office of General Counsel, Washington Metropolitan Area Transit Authority, 600 Fifth Street, NW, Washington, D.C. 20001, or by electronic mail at parpprivreq@wmata.com or by facsimile to the attention of the PARP Administrator at (202) 962-2550. If a request for records is sent directly from the requestor to a Contract Administrator, department, or independent office, that entity shall immediately forward the request to the PARP Administrator in the Office of General Counsel. If records are subject to a PARP request, a member of the PARP team will contact the company to begin the PARP document review process, which includes providing detailed written justifications for any information for which exemptions are claimed.
- (g) Neither WMATA's bidding process nor the PARP process generally allow for the release of information that would cause competitive harm to the bidders, other organizations, WMATA's employees, or interests. Information that will be withheld includes the following:
 - (1) The names of unsuccessful bidders;
 - (2) The bids of unsuccessful bidders;
 - (3) Personal information (this does not include education and qualifications which are released) about the successful bidder or its employees that is not available to the public on the website of the successful bidder;
 - (4) Unit price details of the successful bid (this does not include the bottom line price, which is released);
 - (5) The names of the vendors who file a protest to the solicitation or its award;
 - (6) The written adjudication of any protests;
 - (7) Personal information concerning WMATA's employees; and
 - (8) Trade secrets and confidential commercial or financial information obtained from a bidder.
- (h) If your company's records are subject to a PARP request (i.e., if it is the successful bidder), a broad claim of confidentiality for the entire bid is rarely acceptable, and will likely be rejected during the PARP process. Therefore, WMATA suggests that you narrowly identify your confidential/proprietary information based on the following guidance:
- (i) Information that may be withheld/redacted: Detailed pricing except bottom line offer amounts;

(j) Public information subject to release:

- (1) Any information on your company's website;
- (2) Publicly known information (even if not on your company's website);
- (3) General company background;
- (4) Mere compliance with IFB requirements; and
- (5) Anything standard to the industry.

REPRESENTATIONS & CERTIFICATIONS

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

1. TYPE OF BUSINESS ORGANIZATION

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 _____.

Name	Signature
Title	Company
Date	

2. AFFILIATION AND IDENTIFYING DATA

Each offeror shall complete 2.1, 2.2 if applicable, and 2.3 below, representing that:

2.1 It is, is not, owned or controlled by a parent company. For this purpose, a parent company is defined as one that either owns or controls the activities and basic business policies of the offeror. To own another company, means that the parent company must own at least a majority, i.e., more than fifty percent (50%), 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 the offeror's basic business policy decisions, 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.

2.2 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)

2.3 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. N. of its parent company).

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

Name	Signature
Title	Company
Date	

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.

Name	Signature
Title	Company
Date	

4. COVENANT AGAINST GRATUITIES

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 Board member, employee or agent of the Authority with the view toward securing favorable treatment in the awarding, or administration of this Contract.

Name	Signature
Title	Company
Date	

5. CONTINGENT FEES

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:

- 5.1** 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
- 5.2** 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.

Name	Signature
Title	Company
Date	

6. DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

This certification is applicable to federally assisted contracts over \$25,000.

- 6.1** Primary Covered Transactions. This certification applies to the offer submitted in response to this solicitation and will be a continuing requirement throughout the term of any resultant Contract.
- 6.1.1** In accordance with the provisions of 2 C.F.R. Part 1200 and 2 C.F.R. Part 180, Subpart C, the offeror certifies to the best of its knowledge and belief that it and its principals:
- 6.1.1.1** are not currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or state department or agency;
 - 6.1.1.2** have not, within a three (3) year period preceding this offer, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction; violation of Federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 6.1.1.3** are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses enumerated in paragraph (1) (ii) of this certification; and have not, within a three (3) year period preceding this offer, had one (1) or more public transactions (Federal, state, or local) terminated for cause or default.
- 6.1.2** Where the offeror is unable to certify to any of the statements in this certification, the offeror shall attach an explanation to this offer.
- 6.2** Lower Tier Covered Transactions. This certification applies to a subcontract at any tier expected to equal or exceed \$25,000 and will be a continuing requirement throughout the term of this Contract.
- 6.2.1** The prospective lower tier subcontractor certifies, by submission of this offer, that neither it nor its principals is currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal or state department or agency.
- 6.2.2** Where the prospective lower tier subcontractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.
- 6.3** The Certification required by 7.2, above, shall be included in all applicable subcontracts and the Contractor shall keep a copy on file. The Contractor shall be required to furnish copies of certifications to the Contracting Officer upon his or her request.

Name	Signature
Title	Company
Date	

7. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

7.1 By submission of its 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:

7.1.1 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;

7.1.2 Unless otherwise required by law, the prices that are quoted in this offer have not been knowingly disclosed by the offeror and will not be knowingly disclosed by the offeror prior to award (in the case of a negotiated procurement), directly or indirectly, to any other offeror or to any competitor; and

7.1.3 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.

7.2 Each person signing this offer certifies that:

7.2.1 He or she is the person in the offeror's organization responsible for the decision regarding the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to 8.1.1 through 8.1.3 above; or

7.2.2 He or she is not the person in the offeror's organization responsible for the decision regarding 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 8.1.1 through 8.1.3 above; or and as their agent he or she does hereby so certify.

Name	Signature
Title	Company
Date	

8. NONDISCRIMINATION ASSURANCE

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, religion, national origin, sex, age, disability, sexual preference and/or gender identity in the performance of this Contract. The offeror is required to insert the substance of this clause in all subcontracts and purchase orders. The Contractor's failure 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.

Name	Signature
Title	Company
Date	

9. DISCLOSURES OF INTERESTS OF WMATA BOARD MEMBERS

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 interests include 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:

9.1 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.

9.2 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

9.3 The certification required by 10.1 and 10.2 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 his or her request.

Name	Signature
Title	Company
Date	

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10. CRIMINAL BACKGROUND SCREENING CERTIFICATION (QUARTERLY)

- 10.1** It will contract with or engage a reputable third-party vendor to conduct, criminal background screenings of all Contractor personnel who will have access to WMATA's customers, WMATA's property, or WMATA's information in connection with this Contract. This requirement also applies to Contractors who engage with the general public on WMATA's behalf.

- 10.2** It will screen for criminal convictions, taking into consideration (1) the nature of the services or work being performed under the contract with particular regard for the individual's access to, and interaction with, WMATA's customers, property, and confidential information; (2) the nature or gravity of the offense or conduct resulting in a criminal conviction; and (3) the time that has lapsed since the conviction and/or completion of the sentence, all Contractor personnel who will have access to WMATA's customers, the general public, WMATA's property, or WMATA's information and who work on this Contract during each calendar year within this Contract's period of performance. The Offeror will provide certification that it conducted these screenings to the Contracting Officer's Technical Representative (COTR) on a quarterly basis, on a form provided.

- 10.3** The Contractor shall submit to the COTR, a list of all employees and agents who will require Contractors' access badges not less than 7 days prior to the date on which access will be required.

- 10.4** The Offeror will determine that all Contractor personnel working on this Contract during the calendar year passed the Contractor's criminal background screening and will be in good standing and otherwise fit to work on this Contract.

- 10.5** The Offeror has not obtained or otherwise been made aware of any information about any Contractor personnel working on this Contract that contradicts or otherwise impacts the Contractor's determination that such persons passed the Contractor's criminal background screening and/or are fit to work on this Contract.

- 10.6** The Contractor will flow this requirement down to all of its subcontractors who will have access to WMATA's customers, the general public, WMATA's property, or WMATA's information within this Contract's period of performance.

Name	Signature
Title	Company
Date	

11. CERTIFICATION REQUIRED FOR ALL SAFETY-SENSITIVE¹ CONTRACTS.

- 11.1** By submission of this offer, the offeror represents and certifies that it will comply with the Federal Transit Administration (FTA) regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 C.F.R. Part 655, and applicable provisions of the U.S. Department of Transportation (DOT) regulations, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," 49 C.F.R. Part 40.

¹ See the Combined Glossary for a definition of "safety-sensitive."

- 11.2** Offeror agrees that its employees and agents, including but not limited to, safety-sensitive subcontractors will be enrolled in a drug and alcohol testing program that meets the policy and procedural requirements listed in Appendix A of this document.

- 11.3** Offeror understands that Washington Metropolitan Area Transit Authority (WMATA) will perform oversight during the contract's period of performance to ensure that the successful offeror complies with the DOT/FTA regulations.

- 11.4** Failure to comply with this certification may result in WMATA issuing sanctions and pursuing available contractual remedies.

Name	Signature
Title	Company
Date	

PRE-AWARD EVALUATION DATA
(Submit this with your offer)

PROJECT DESCRIPTION: _____

1. Name of firm _____

2. Address: _____

3. Individual Partnership Corporation Joint Venture

4. Date organized _____.

State where incorporated or organized _____.

5. Names 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 (1) a list of similar current contracts that demonstrate your firm's technical proficiency, each with contract amount, name of contracting party, character or type of work and percentage of completion.

8. Attach as Schedule Two (2) a list of similar contracts, each with contract amount, name of contracting party, and character or type of work for similar contracts completed in the last two (2) years.

9. In the last two (2) years has your firm been denied an award where it was the offeror?

If the answer is yes, attach as Schedule Three (3) the full particulars regarding each occurrence.

10. Has your firm failed to complete, in the last two (2) years, any contract on which it was the offeror?

If the answer is yes, attach as Schedule Four (4), the full particulars regarding each occurrence.

11. Financial resources available as working capital for the Contract:
 - a. Cash on hand: \$ _____
 - b. Sources of credit: _____
12. Attach as Schedule Five (5) financial statements and letters from banks regarding credit as required by the "Pre-Award Information" article.
13. What percentage of work (Contract amount) does your firm intend performing with its own personnel? %.
14. Attach as Schedule Six (6), a list of all principal subcontractors and the percentage and character of work (Contract amount) that each will perform. Principal items of work shall include, but not be limited to, those items listed in the "Pre-Award Information" article.
15. If the Contractor or subcontractor is in a joint venture, submit "Pre-Award Evaluation Data" forms for each member of the joint venture.

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

The undersigned certifies to the accuracy of all information.

COMPANY: _____

SIGNATURE: _____

NAME: _____

TITLE: _____

DATE: _____

TERMS AND CONDITIONS

CHAPTER I – TERMS AND CONDITIONS

1. AGREEMENT

The work to be performed under this Contract may briefly be described as motor vehicle records monitoring services, 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 this Contract. In consideration for the Contractor's complete, satisfactory and proper performance of the Contract, the Authority agrees to pay to the Contractor, and the Contractor agrees to accept as full compensation, 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.

2. ARRANGEMENT OF CONTRACTUAL PROVISIONS

For ease of reference, this Contract is 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 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 shall be resolved by giving precedence to the following order: (a) terms and conditions (b) the specifications or Statement of Work; (c) drawings, if any; (d) other documents, exhibits, and attachments generated by the Authority as part of the Contract; (e) the technical proposal, if any, and other Contractor submissions generated as part of the Contract. In the event of a conflict within or between provisions entitled to equal precedence, the more stringent requirement shall apply.
- (b) Notwithstanding paragraph (a), if 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 provisions of the Contract.

4. REQUIREMENTS CONTRACT

- (a) This is a requirements Contract. A requirements contract provides the Contractor with both the legal right and the legal duty to supply goods and/or services in an amount that is determined by WMATA's needs, rather than by a fixed quantity. If, however as the result of an urgent need, the Authority requires any quantity of goods or services before the date otherwise specified under this Contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Authority may acquire the urgently required goods or services from another source.
- (b) If the Contractor is unable or otherwise fails to provide goods or services within the time frames required in this Contract, the Authority reserves the right to procure them from any other source and in any other manner it deems appropriate. Nothing contained herein shall be deemed to waive, modify or impair the Authority's right to treat such failure as a material breach of the Contractor's obligations pursuant to the

“Default” article of this Contract, or to pursue any other remedy to which the Authority may be entitled pursuant to this Contract, at law or in equity.

5. INDEFINITE QUANTITY CONTRACT

Not Applicable.

6. ORDERING

- (a) The Contracting Officer shall order the services to be furnished under this Contract by the issuance of purchase orders and or task orders. Such orders may be issued throughout the Period of Performance.
- (b) All delivery orders and or task orders are subject to the terms and conditions of this Contract. In the event of a conflict between a purchase order or task order and this Contract, this Contract shall control.
- (c) If mailed, a delivery order or task order is considered “issued” when the Authority places the order in the mail. Orders may be issued electronically, if authorized by the Price Schedule.

7. ORDER LIMITATIONS

Not Applicable.

8. 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 U.S. Comptroller General 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 sufficiently to properly reflect all costs incurred or anticipated to be incurred directly or indirectly in performance of this Contract. This right of examination shall include inspection of the Contractor’s facilities engaged in performing this Contract at all reasonable times.
- (c) *Cost or pricing data.* If the Contractor is 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 proposal for the Contract, subcontract, or modification; (2) any clarifications or discussions conducted on the proposal; (3) pricing of the Contract, subcontract or modification; or (4) performance of the Contract, subcontract or modification.
- (d) *Availability.* The accounts, records and cost 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 their offices at all reasonable times for inspection, audit, reproduction or such other purposes as the Contracting Officer or by anyone he or she authorizes may require 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. If the Contract is completely or partially terminated, such records shall be maintained 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. If a pricing adjustment is involved in any dispute or litigation related to this Contract, such records shall be maintained 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 this article, in all subcontracts that exceed \$150,000.

9. AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR

Funds are not guaranteed for performance under this Contract beyond the current fiscal year that ends on June 30th. 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. The Authority's legal liability for any payment cannot arise for performance under this Contract, until funds are made available to the Contracting Officer for performance and until he or she notifies the Contractor of the availability, in writing. 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 that year and will be governed by the terms of this article.

10. CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)

- (a) The work will be conducted under the Contracting Officer's general directions. Authority will be delegated to the Contracting Officer's Technical Representative (COTR) to take the following actions;
- (1) Act as the principal point of contact with the Contractor. The COTR will submit a copy of each item of incoming correspondence and a copy of any enclosures to the Contract Administrator;
 - (2) Approve in writing, the Contractor's progress schedule and submittals when required;
 - (3) Inspect the work for compliance with this Contract;
 - (4) Review and approve invoices and payment estimates. The COTR will forward invoices and receipts to accounting. The COTR will bring any significant discrepancies in, or disputes concerning, Contractor invoices or payments to the Contracting Officer's attention. In those cases requiring release of final retained percentages of payment, the COTR will make his or her recommendations to the Contracting Officer in writing;
 - (5) Coordinate correspondence with the Contract Administrator, if its importance significantly impacts the Contractual terms and conditions;
 - (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 DBE Office, if DBE, SBE, or SBLPP issue(s) appear that may require investigation.
 - (9) Advise the Contracting Officer whenever the COTR has reason to believe that the Contractual not-to-exceed amount will be exceeded;
 - (10) Prepare the Authority's estimate for proposed Contract modifications. Participate in negotiations for modifications;
 - (11) Approve, in writing, the Contractor's progress schedule when required.
 - (12) Receive from the Contractor, monthly, if applicable, DBE status reports and forward them to the DBE Office;
 - (13) Receive from the Contractor certified payroll reports and prepare a log sheet indicating the following: (1) name of the Contractor and subcontractor; (2) the Contract number; (3) the certified payroll number (number for the payroll for the project starting with the number 1); (4) the time frame of the payroll period (i.e. 1/21/11-2/3/11); (5) the statement of compliance date (first page of the report); and (6) the date the report was received by WMATA;
 - (14) Maintain a comprehensive file/record of documents and correspondence concerning Contract activities and actions;
 - (15) 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 it is ready for closeout. The COTR will return the file, containing all records, correspondence, etc., to the Contract Administrator;
 - (16) Execute Standard Form 1420, which contains a detailed performance evaluation of the Contractor. If, there are one (1) or more categories in which the Contractor is deemed unsatisfactory, these evaluations must be provided to it for comment;
 - (17) Provide the Contract Administrator with a written request (and requisition) to exercise option(s) (if any) a minimum of ninety (90) days prior to the time established in this Contract for exercise of the option;
 - (18) The presence or absence of the COTR or his or her inspectors shall not relieve the Contractor from any requirements of this Contract.
 - (19) The COTR may not re-delegate or sub-delegate his or her authority to act on the Contracting Officer's behalf. If, for whatever reason the COTR is unable or unwilling to fulfill his or her responsibilities under this Contract, only the Contracting Officer can designate a new COTR.
- (b) The COTR's name and address will be provided after award.

CHAPTER II – TIME/DELAYS/LIQUIDATED DAMAGES

1. PERIOD OF PERFORMANCE

The period of performance is 365 days commencing on the date of notice to proceed letter.

The Authority has the unilateral right to extend this Contract by exercising up to four (4) one-year option periods subject to all terms and conditions stated herein.

The Authority may exercise the options by written notice to the Contractor prior to commencement of the option period. The Contracting Officer shall give the Contractor a preliminary notice of its intent to exercise an option within a reasonable time before the Contract expires. The preliminary notice does not commit the Authority to exercise an option.

2. OPTIONS- EVALUATION

In awarding this Contract, the Contracting Officer shall evaluate offers for any option quantities or periods contained in a solicitation in accordance with PPM §§ 4-21 through 4-23.

3. OPTIONS- EXERCISE

- (a) When exercising an option, the Contracting Officer shall provide written notice to the Contractor within a reasonable amount of time before exercising the option.
- (b) When the Contract provides for economic price adjustment and the Contractor requests a revision of the price, the Contracting Officer shall determine the effect of the adjustment on prices under the option before the option is exercised.
- (c) In accordance with PPM § 4-23, the Contracting Officer may exercise options only after determining that—
 - (1) Funds are available;
 - (2) The requirement covered by the option fulfills an existing WMATA need;
 - (3) The exercise of the option is the most advantageous method of fulfilling WMATA's needs, when price and other factors are considered.
 - (4) Contractor is not listed in the System for Award Management's Exclusions (See www.sam.gov).
 - (5) The Contractor's past performance evaluations on other Contract actions have been considered; and
 - (6) The Contractor's performance on this Contract has been acceptable in that it received satisfactory ratings.
- (d) The Contracting Officer, after considering price and other factors, shall make the determination on the basis of one (1) of the following:
 - (1) A new solicitation fails to produce a better price or a more advantageous offer than that offered by the option. If it is anticipated that the best price available is the option price or that this is the more advantageous offer, the Contracting Officer should not use this method of testing the market.

- (2) An informal analysis of prices or an examination of the market indicates that the option price is better than prices available in the market or that the option is the more advantageous offer.
- (3) The time between the award of the Contract containing the option and the exercise of the option is so short that it indicates the option price is the lowest price obtainable or the more advantageous offer. The Contracting Officer shall take into consideration such factors as market stability and comparison of the time since award with the usual duration of Contracts for such supplies or services.
- (e) The determination of other factors under subparagraph (d):
 - (1) Should take into account WMATA's need for continuity of operations and potential costs of disrupting operations; and
 - (2) May consider the effect on DBEs.
- (f) Before exercising an option, the Contracting Officer shall make a written determination for the Contract file that the exercise is in accordance with the terms of the option, and the requirements of this clause. To satisfy requirements for full and open competition, the option must have been evaluated as part of the initial competition and be exercisable at an amount specified in or reasonably determinable from the terms of the basic contract, such as:
 - (1) A specific dollar amount;
 - (2) An amount to be determined by applying provisions (or a formula) provided in the basic contract, but not including renegotiation of the price for work in a fixed-price type contract;
 - (3) In the case of a cost-type contract, if—
 - (a) The option contains a fixed or maximum fee; or
 - (b) The fixed or maximum fee amount is determinable by *applying* a formula contained in the contract;
 - (4) A specific price that is subject to an economic price adjustment provision; or
 - (5) A specific price that is subject to change as the result of changes to prevailing labor rates provided by the U.S. Secretary of Labor.
- (g) The Contract modification or other written document that notifies the Contractor of the exercise of the option shall cite this article as authority.

4. OPTION FOR INCREASED OR DECREASED QUANTITIES OF SUPPLIES

WMATA may increase or decrease the quantities of supplies called for in the Price Schedule, at the unit price specified. WMATA may also require the delivery of a numbered line item, identified in the Price Schedule as an option item, in the quantity and at the price stated in the Price Schedule. The Contracting Officer may exercise the option by written notice to the Contractor within a reasonable amount of time before exercising the option. Delivery of the

added items shall continue at the same rate as the like items called for under the Contract, unless the parties agree otherwise.

5. OPTIONS TO EXTEND SERVICES

WMATA may require continued performance of any services within the limits and at the rates specified in this Contract. These rates may be adjusted only as a result of revisions to the prevailing labor rates provided by the U.S. Secretary of Labor. This option provision may be exercised more than once, but the total extension of performance thereunder shall not exceed six (6) months. The Contracting Officer may exercise the option by written notice to the Contractor within a reasonable amount of time exercising the option.

6. OPTION TO EXTEND THE TERM OF THE CONTRACT

- (a) WMATA may extend the term of this Contract by written notice to the Contractor within a reasonable amount of time exercising the option, provided that WMATA gives the Contractor a preliminary notice of its intent to extend within a reasonable amount of time before the Contract expires. The preliminary notice does not commit WMATA to the extension.
- (b) If WMATA exercises this option, the extended Contract shall include this option clause.
- (c) The total duration of this Contract, including any options under this clause shall be reasonable as determined by the Contracting Officer in consultation with counsel (COUN).

7. OPTIONS EXERCISED OUT OF SEQUENCE

WMATA may exercise options at any time, including during the base period, and in any sequence, even if it varies from the sequence stated in the Price Schedule. The Contractor may be entitled to an equitable adjustment in the Contract price, if exercising the option out of sequence causes any undue delay in performance of this Contract. If options are extended during the base period or out of sequence, any previously agreed to economic price adjustment for exercise of the option may not apply, at the Contracting Officer's discretion.

8. LIQUIDATED DAMAGES FOR DELAY

Not Applicable.

9. EXTENSIONS OF TIME/FORCE MAJEURE

- (a) For purposes of this clause, the term "force majeure" shall mean an unforeseen event or circumstance, beyond the control of, and not occasioned by the fault or negligence of, the Contractor or the Authority, that gives rise to a delay in the progress 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.

- (b) Notwithstanding the provisions of the "Liquidated Damages" article of this Contract (if applicable), if the Contractor is delayed at any time during the performance of this Contract, by the Authority's negligence or by a force majeure event, then the Contracting Officer shall extend the time for completion and/or the affected delivery date(s) 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(ies) will be actually and necessarily delayed;
 - (3) The delay cannot be avoided or mitigated by the exercise of all reasonable precautions, efforts and measures available to the Contractor, whether before or after the cause of delay; and
 - (4) The Contractor makes a written request and provides other information to the Contracting Officer, as described below.
- (c) If the Contractor will be delayed at any time or for any period by two (2) or more of the above-mentioned causes, the Contractor shall not be entitled to a separate extension for each cause, but shall be entitled to 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 he or she subsequently determines that any information that the Contractor provided in support of a request for an extension of time was erroneous, if, accurate information would have resulted in a denial of the request for an excusable delay. The Contracting Officer will not rescind or shorten any extension previously granted, if the Contractor acted in reliance upon it and if, in his or her judgment, such extension was based on information that the Contractor submitted in good faith, even if it is later determined to be erroneous.
- (e) The request for an extension of time shall be made within ten (10) days after the Contractor knows or should know of any cause for which it may claim an excusable delay. The Contractor's request shall contain any potential basis for an extension of time, describing, as fully as possible, the nature and projected duration of the delay and its effect on the completion of the work identified in the request. Within thirty (30) days after his or her receipt of all such information, the Contracting Officer shall advise the Contractor of his or her decision on such requested extension. Where it is not reasonably practicable for the Contracting Officer to render his or her decision in the thirty (30) day period, he or she shall, prior to the expiration of such period, advise the Contractor that he or she will require additional time and state the approximate date upon which he or she expects to render a decision.
- (f) In no event shall a delay in performance of the Contract 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 pursuant to this Contract. In no event shall a subcontractor at any tier be deemed a party outside of the Contractor's control.

10. THE AUTHORITY'S DELAY

- (a) If the performance of all or any part of this Contract is delayed in a material manner or extent by the Authority's acts or omissions that are not expressly or impliedly authorized by this Contract or by applicable provisions of law, the Contracting Officer shall make an adjustment (excluding profit) for any increase in the cost of performance of this Contract caused by such delay and shall modify the Contract, in writing. The Contracting Officer shall make an adjustment to the delivery or performance dates and to any other Contractual provision, if such delay or interruption affected Contract compliance. The Contracting Officer shall make no adjustment under this Contract for any delay or interruption, if performance was or could have been delayed by any other cause, including, without limitation: (i) the fault or negligence of the Contractor or any subcontractor; (ii) an act constituting a force majeure event pursuant to this Contract; or (iii) any other cause for which an adjustment is provided under any other article of this Contract, at law or in equity.
- (b) An adjustment pursuant to paragraph (a) shall not be allowed:
 - (1) For any costs incurred more than twenty (20) days before the Contractor notifies the Contracting Officer, in writing, of the delay.
 - (2) Unless the claim, in a sum certain, is asserted in writing as soon as practicable after the termination of the delay. In no event, shall a Contractor assert a delay claim later than thirty (30) days after its termination. The delay claim shall be accompanied by appropriate documentation, specifically supporting the nature and extent of the claimed impact upon the cost and/or time required for performance. In any instance where it is not possible for the Contractor to fully project such impact within the thirty (30) day period, it shall support the claim with such documentation as is then reasonably available, along with a statement of the anticipated time frame when the Contractor expects to provide the additional materials. The Contracting Officer shall maintain the right throughout the process to request such additional materials as he or she shall reasonably require in consideration of the claim and shall be under no obligation to conclude his or her consideration of the claim prior to review of all relevant materials. Any adjustment to the Contract price pursuant this article must be determined prior to final payment under this Contract.

11. 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 if a labor dispute may delay the timely performance of this Contract.

12. NOTIFICATION OF BANKRUPTCY OR INSOLVENCY

In the event the Contractor becomes insolvent or files or has filed against it a petition in bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the Contract, written notification of such to the Contracting Officer. This notification shall be furnished as soon as possible, but in no event more than ten (10) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all WMATA Contract numbers for all WMATA contracts against which final payment has not been made. This obligation remains in effect until final payment under 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. The Contractor shall maintain complete records of all inspection work it performs and make them available to the Authority during Contract performance in the manner and in accordance with the time periods set forth in the “Audit and Inspection of Records” article of this 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 this Contract. The Authority shall perform inspection and tests in a manner that will not unduly delay the Contract.
- (c) If the Authority performs inspections or tests on the Contractor’s or subcontractor’s premises, 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 the Contract’s requirements, the Authority may require the Contractor to perform them again in conformity with the Contract’s 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 this Contract’s 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 reducing the Contract price due to the reduced value of nonconforming services to the Authority.

2. INSPECTION OF SUPPLIES

Not Applicable.

3. ACCEPTANCE OF SUPPLIES

Not Applicable.

4. NEW MATERIAL [SUPPLIES]

Not Applicable.

5. WARRANTY OF SUPPLIES

Not Applicable.

6. WARRANTY OF SERVICES

(a) Definitions.

“Acceptance,” as used in this clause, means the act(s) of WMATA’s authorized representative by which WMATA approves specific services, in partial or complete performance of the Contract.

(b) Notwithstanding inspection and acceptance by WMATA or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor within thirty (30) days from the date of acceptance by WMATA. This notice shall state either --

(1) That the Contractor shall correct or re-perform any defective or nonconforming services; or

(2) That WMATA does not require correction or re-performance.

(c) If the Contractor is required to correct or re-perform, it shall be at no cost to WMATA, and any services corrected or re-performed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or re-perform, the Contracting Officer may, by contract or otherwise, correct or replace the services with similar services and charge the Contractor with the cost, or make an equitable adjustment to the Contract price.

(d) If WMATA does not require correction or re-performance, the Contracting Officer shall make an equitable adjustment to the Contract price.

7. CORRECTION OF DEFICIENCIES

(a) The Contractor must replace materials or correct workmanship not conforming to the Contract’s requirements at no additional cost to WMATA. In addition, the Contractor is subject to any liquidated damages specified in this Contract or actual damages incurred by WMATA. If the Contractor fails to correct deficiencies, the Contracting Officer, may take specific action as follows:

(1) Replace or correct the item or work at the Contractor’s expense. This may be accomplished by award of a new contract or by use of WMATA’s own resources.

(2) Accept the items with a reduction in price. This action will be accomplished by formal modification to this Contract. The reduced price will be based upon the reasonable value of the item, considering the possible cost of correcting the item.

(3) Terminate this Contract for default. If the item or work must be re-procured, the Contractor is normally liable for excess costs incurred by WMATA in accordance with the "Termination for Default" article of this Contract.

8. FIRST ARTICLE INSPECTION

Not Applicable.

9. F.O.B. DESTINATION

Not Applicable.

10. QUALITY ASSURANCE/QUALITY CONTROL

The Contractor shall be responsible for quality assurance and for assuring that the work conforms to the requirements of this Contract. The Contractor shall maintain an effective and economical quality control program planned and developed in conjunction with other Contractor functions necessary to satisfy this Contract's 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 Contract's quality requirements and an organized approach to satisfying them. The program shall ensure that quality requirements are satisfied throughout all phases of Contract performance, including, as applicable, design development, purchasing, fabrication, processing, assembly, inspection, testing, packaging, delivery, and storage and shall provide for the early detection of actual or potential deficiencies, trends, or conditions that 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 or delivery of the supplies.
- (b) If, in the Contracting Officer's judgment, any change causes an increase or decrease in the cost of, or the time required for, the performance of any part of this Contract, whether or not directly changed by the order, he or she shall make an equitable adjustment to the Contract price, the delivery schedule, or both, and shall modify the Contract, in writing, 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, it must submit a written claim 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, supporting the nature and extent of the claimed impact upon the Contract price and/or time required for performance. In any instance where it is not reasonably practicable fully project such impact within the thirty (30) day period, the Contractor shall accompany its claim with such supporting documentation as is then reasonably available as along with a statement of the anticipated time frame when the Contractor expects to provide the additional materials. The Contracting Officer shall maintain the right throughout the process to request such additional materials as he or she shall reasonably require in consideration of the claim and shall be under no obligation to conclude his or her consideration of the claim prior to 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 property disposition.
- (e) Disagreement regarding either party's right 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 the pendency of any such dispute, the Contractor expressly acknowledges that it shall remain fully obligated to perform the Contract as so changed.
- (f) The Contractor shall promptly notify the Contracting Officer of matters, whether implemented as change orders or otherwise, that the Contractor believes may reasonably result in either an increase or decrease in the Contract price or the time

required for performance of any part of the Contract and shall take action as the Contracting Officer directs. 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) In no event shall the Contractor be entitled to payment for change orders, additional or extra supplies or services or other modifications to this Contract, unless the Contracting Officer authorizes, it in writing.

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, proposal or adjustment, including equitable adjustments, whether it arises under the Contract or otherwise.
- (b) As part of its proposal for any Contract modification requiring a price adjustment in excess of \$150,000, the Contractor shall submit to the Contracting Officer, 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 submitted. At the Contracting Officer's discretion, the Contractor, may be required to submit cost or pricing data for price adjustments less than \$150,000.
- (c) The Contractor shall ensure that this article is included in all subcontracts at any tier, if the value of the subcontracted work exceeds \$150,000.

3. ACCOUNTING AND RECORD KEEPING FOR ADJUSTMENTS

- (a) *Applicability.* This article shall apply to any adjustment in the Contract price initiated by the Contractor or the Authority.
- (b) *Forward Price Adjustments.* Unless waived in writing, the Contractor shall furnish to the Contracting Officer, a proposed price adjustment in advance of performance of any work for which the 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.
- (c) *Post Price Adjustments.* This paragraph shall be applicable to price adjustments that either (i) are expected to exceed \$50,000; or (ii) 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, if pricing of an adjustment under this Contract is not agreed upon between the parties prior to the commencement of work for which the pricing adjustment is requested, the Contractor and any subcontractor engaged in work for which the pricing adjustment is requested, shall maintain accounts and original cost records specifically segregated and identified by job order or other appropriate accounting categories that the Contracting Officer approves for 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 Contract for which

the pricing adjustment is requested. The Contractor 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.

- (e) *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 the Contracting Officer deems appropriate.
- (f) *Limitation on Price Adjustments.* If the Contractor or any subcontractor fails to generate, maintain, or make available any records required under this Contract, in addition to any rights to which the Authority may be entitled, the Contracting Officer shall determine whether such failure is willful, deliberate or otherwise precipitated by the Contractor's bad faith, in which case 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, he or she shall determine the reasonable direct costs 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 the Contractor's or subcontractor's records made available to the Authority; and/or
 - (2) The Authority's estimate as the Contracting Officer adopts or modifies
- (g) 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 Contract.
- (h) *Flow-down clause.* The Contractor shall ensure the inclusion 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 this 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 yards or facilities; all risks and obligations set forth in this Contract; any applicable fees or taxes; and all expenses due to any unforeseen difficulties 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 acceptance 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 (1) 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 (1) 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's 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, and contact name and email address. Final invoices must clearly be marked "Final" and cite the amount of this Contract, amount previously paid, and the balance due.
- (d) The Authority shall remit payment, generally within thirty (30) days of its receipt and acceptance of an invoice satisfying the requirements of paragraphs (b) and (c), at the prices stipulated in the Contract for supplies delivered and accepted or services rendered and accepted, less any applicable deductions.

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

If the Contracting Officer determines that any price, including profit or fee, previously negotiated in connection with any modification to this Contract involving changes in cost plus

applicable profit in excess of \$150,000 was based upon the Contractor's or subcontractor's cost or pricing data that was not complete, accurate or current, such that the amount the Authority paid to the Contractor for such price adjustment was greater than the Contractor would have been entitled to, based upon accurate and complete data, the Authority shall be entitled to an adjustment in an amount equal to such overpayment. The Authority's rights hereunder shall be in addition to any other rights it may have under this Contract, at law or in equity.

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, any retention withheld from the subcontractor within ten (10) days of satisfactory completion of all work required by that 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. The Contractor shall notify the Contracting Officer with each payment request, of any situation where 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 Contracting Officer may provide information that he or she deems appropriate in response to inquiries from subcontractors seeking to determine the status of the Authority's payments to the Contractor.
- (e) Nothing contained in this article or elsewhere in this Contract shall create a Contractual relationship between the Authority and any subcontractor, shall make the subcontractor an intended beneficiary of this Contract or shall alter or affect traditional concepts of privity of contract.

4. GARNISHMENT OF PAYMENTS

Payments 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 agree, the Contracting Officer shall either:
- (1) Cancel the SWO; or
 - (2) Terminate the work covered by the SWO as provided in this Contract, as appropriate.
- (b) If a SWO is cancelled or expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment to the delivery schedule or Contract price, or both, and shall modify the Contract in writing if, in his or her judgment:
- (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. At the Contracting Officer's discretion, the Authority may act upon any 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 this Contract.

2. TERMINATION FOR DEFAULT

- (a) The Contractor shall be in default if it commits a breach of any of its obligations under this Contract deemed material by the Contracting Officer. In addition to those instances specifically referred to in this Contract, the Contractor shall be in default in the following circumstances:
- (1) It fails to begin, or abandons, the work of the Contract in accordance with the contractual requirements;
 - (2) It fails to deliver the supplies or perform the services within the time specified in this Contract or any extension that the Contracting Officer approves;

- (3) It fails to make progress in a manner that the Contracting Officer deems unreasonable so as to endanger performance of this Contract; or
 - (4) In the view of the Contracting Officer, the Contractor is willfully violating this Contract or is not executing it reasonably and in good faith.

- (b) In the event the Contractor's material breach pursuant to paragraph (a), the Contracting Officer is authorized to direct a written notice (a "Notice to Cure") to the Contractor, specifying the nature of the breach and stating that the Contractor has ten (10) days to cure the breach or such additional time as the Contracting Officer authorizes. If the Contractor fails to cure the breach in the time specified in the Notice to Cure, the Contracting Officer may terminate this Contract, in whole or designated part, for default after providing 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 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, material costs, plant costs, tooling expenses, and equipment and property costs. The Authority may deduct the costs and expenses so charged and pay them 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 this Contract that was not terminated.

- (d) The Contracting Officer may, at his or her sole discretion, waive a default by the Contractor, but such waiver shall not be deemed a waiver of any subsequent default.

- (e) Upon any termination for default, the Contracting Officer may require the Contractor to transfer title and deliver to the Authority, any completed or 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. At the Contracting Officer's direction, the Contractor shall also protect and preserve property in its possession in which the Authority may have an interest.

- (f) Upon any termination for default, the Authority shall pay for supplies delivered and accepted and/or services rendered and accepted in accordance with the terms of this Contract. The Authority may also compensate the Contractor for actions that it reasonably takes at the Contracting Officer's direction for the protection and preservation of property. The Authority may withhold from these payments any sum that the Contracting Officer determines to be necessary to protect the Authority against loss because of outstanding or claimed liens, or 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 converted to a termination for convenience and the rights and obligations of the parties shall be determined in accordance with the "Termination for Convenience" article of this Contract.

- (h) Any dispute or disagreement regarding any issue arising under this article shall be subject to adjudication in accordance with the “Disputes” article of this 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 “Disputes” article or otherwise be subject to further review under this Contract or otherwise. The pendency of any dispute shall not constitute a basis for the delay or suspension of, or otherwise affect the Authority’s right to proceed in accordance with this article, including without limitation, its right to complete the work or its right to insist that the Contractor complete any portion of the Contract that was not terminated.
- (i) The Authority’s rights and remedies in this article are in addition to any other rights and remedies provided under this Contract, at law or in equity.

3. TERMINATION FOR CONVENIENCE

- (a) The Contracting Officer may terminate this Contract in whole, or in part, if he or she determines that a termination is in the Authority’s interest. The Contracting Officer shall terminate by delivering a “Notice of Termination” to the Contractor specifying the extent of termination and its effective date.
- (b) Upon receipt of a Notice of Termination, except as the Contracting Officer otherwise directs, the Contractor shall immediately:
 - (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 of the Contractor’s right(s), title, and interest(s) 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 for the work that was the subject of such subcontracts;
 - (6) With the Contracting Officer’s approval, settle all outstanding liabilities and settlement costs arising from the termination of subcontracts;
 - (7) As the Contracting Officer directs, transfer title and deliver to the Authority:
 - (i) Parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and
 - (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 had been 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 Contractor's possession and in which the Authority has or may acquire an interest;
- (9) Use its best efforts to sell, as the Contracting Officer authorizes, any property of the types referred to in paragraph (b)(7). The Contractor is not required to extend credit to any purchaser and may acquire the property under the conditions that the Contracting Officer prescribes. 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 that the Contracting Officer directs.
- (c) The Contractor shall submit complete termination inventory schedules not later than one hundred twenty (120) days from the effective date of termination, unless the Contracting Officer extends the time in writing.
- (d) As soon as reasonably practicable, and 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 termination settlement proposal (TSP) to the Contracting Officer in the form that he or she prescribes, detailing the costs to which it asserts entitlement pursuant to this article. If the Contractor fails to submit the TSP within the time prescribed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due to the Contractor as a result of the termination and shall pay the amount so determined.
- (e) Following submission of the Contractor's TSP pursuant to paragraph (d), the parties shall 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. In no event shall the total amount to be paid to 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 disagree on the whole amount to be paid because of the termination, the Contracting Officer shall pay the Contractor the amounts that he or she determines as follows, but without duplication of any amounts agreed upon under paragraph (e):
 - (1) The Contract price for completed supplies or services that the Authority accepted [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 subparagraph (f)(1);

- (ii) Termination costs under terminated subcontracts that are properly chargeable to the terminated portion of this Contract, if not excluded in subparagraph (f)(2)(i); and
 - (iii) A sum, representing profit on the items described in subparagraph (f)(2)(i) that the Contracting Officer determines to be fair and reasonable pursuant to Section 49.202 of the Federal Acquisition Regulation (FAR), in effect on the date of this Contract. 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 subparagraph 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 TSP(s);
 - (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 he or she determines of property that is unavailable or damaged and undeliverable to the Authority or to a third party.
- (h) The cost principles and procedures of FAR Part 31 in effect on the date of this Contract, shall govern all costs claimed, agreed to, or determined under this article, except that the Authority shall not be obligated to pay interest, however represented, on any claimed costs.
- (i) The Contractor shall have the right to appeal, under the "Disputes" article, from the Contracting Officer's determination under paragraphs (d) or (f). The Contractor's failure to submit the TSP within the time provided in paragraph (d), or to timely request an extension thereof, shall constitute a waiver of its right to appeal the Contracting Officer's determination pursuant to the "Disputes" article or any otherwise applicable Contractual, legal or equitable remedy.
- (j) In determining any sum due to the Contractor under this article, there shall be deducted:
 - (1) All unliquidated advances or other payments to the Contractor under the terminated portion of this Contract;
 - (2) The value, as the Contracting Officer, reasonably determines, of any claim that the Authority has against the Contractor under this Contract, including

any third-party claim, if 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 that the Contractor procured or sold under this article, not recovered by or credited to the Authority.
- (k) If the Contractor asserts that any partial termination has rendered enforcement of the remainder of this Contract at the remaining Contract price inequitable, the Contractor may file a proposal with the Contracting Officer for an adjustment to the price(s) for the continued portion of this Contract. Such proposal shall be submitted within ninety (90) days from the effective date of termination, unless the Contracting Officer extends it in writing, and shall be accompanied by appropriate supporting documentation.
- (l) The Contractor's responsibilities and obligations under this article shall 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 Contractor's costs and expenses 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 U.S. Comptroller General 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 article, the Contractor shall not transfer any of its rights and obligations under this Contract to third parties without the Contracting Officer's prior, written consent. The Contracting Officer may recognize a third party as successor in interest to this Contract in the event of a transfer of all or substantially all of the Contractor's assets, a change in a division of the Contractor involved in the performance of this Contract, or if a parent company provides performance guarantee(s) under this Contract, (i.e., sales of assets, transfer of assets pursuant to merger or consolidation, or incorporation of a proprietorship or partnership). Such recognition shall be at the Contracting Officer's discretion after review of the facts and circumstances surrounding each request. The Contracting Officer, at his or her discretion, may conduct an evaluation of the successor party's capability to perform this Contract in the same manner and to the same extent that he or she conducted 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, he or she may terminate this Contract.

- (b) Any attempt to transfer by assignment that the Contracting Officer does not authorize shall constitute a material breach of this Contract and the Contracting Officer may terminate this Contract in accordance with the "Termination for Default" article set forth in this Contract.
- (c) Nothing contained herein shall be deemed to preclude the Contractor's assignment of claims for monies due or to be become due to it 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 Contracting Officer.

5. DISPUTES

- (a) 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 Contracting Officer's decision shall be final and conclusive unless, within thirty (30) calendar days from the date of its receipt, the Contractor mails or otherwise furnishes to the Contracting Officer, a written notice of appeal addressed to the Authority Board of Directors. Such notice must indicate that an appeal is intended and must 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 or board of competent jurisdiction, it determines that the decision was fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In any appeal under this article, the appellant 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 this Contract in accordance with the Contracting Officer's decision. The Armed Services Board of Contract Appeals (ASBCA) is the Board of Directors' authorized representative 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 questions of law.

CHAPTER VII – INDEMNIFICATION/INSURANCE/RISK OF LOSS

1. INDEMNIFICATION

- (a) Contractor shall indemnify, defend and hold harmless the Authority, its Board members, employees and agents, from all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including reasonable attorneys' 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 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 Contractor from ultimate liability for any of its obligation under this Contract.
- (b) Contractor shall indemnify, defend and hold harmless the Authority, its Board members, 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. The foregoing indemnity does not apply to loss or damage due to preexisting conditions, whether known or unknown.
- (c) If any action or proceeding relating to this indemnification is brought against the Authority, then upon written notice from the Authority to the Contractor, the Contractor shall, at its own expense, resist or defend such action or proceeding by counsel approved by the Authority in writing. 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 under this indemnity at Contractor's sole cost and expense.
- (d) Contractor understands and agrees to its responsibility to provide indemnification to the Authority pursuant to this clause. The provision of insurance, while anticipated to provide a funding source for this indemnification, is in addition to any indemnification requirements. The failure of Contractor's insurance to fully fund any indemnification shall not relieve the Contractor of any obligation hereunder.

2. INSURANCE REQUIREMENTS

If you do not currently carry all of the required insurance for this IFB, a current certificate of insurance (COI) evidencing the insurance you do carry and a letter from your insurance agent/broker stating that 'if our client (you) are awarded the contract, the required coverage will be provided' will suffice.

Insurance Requirements

CQ18227 - Motor Vehicle Record Services

Coverages with an "X" are required:

[X] Commercial General Liability insurance (CGL) - \$1,000,000 per occurrence/\$2,000,000 aggregate

[X] Technology Errors and Omissions - \$1,000,000 per claim

[X] Professional Liability insurance - \$1,000,000 per claim

Insurance Provisions:

- Insurance carriers shall have an A.M. Best rating of at least A-/VII.
- WMATA shall be named as an additional insured on the CGL and the AL policies.
- Waiver of subrogation is required for Workers' Compensation insurance.
- CGL and AL insurance shall be primary and non-contributory to any insurance WMATA may have.
- WMATA shall be provided at least 30 days written notice of cancellation.
- Vendor shall provide evidence of insurance coverage to WMATA in the form of a current certificate(s) of insurance (COI).
- Insurance shall be maintained and evidence provided (COI) for the duration of the contract.

Contractor/Vendor agrees to indemnify, defend and hold harmless WMATA from all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including reasonable attorney's fees), for loss, of whatsoever kind and nature (including but not limited to death, personal injury, property damage, or economic loss) occurring in connection with or arising out of the products or services provided, Vendor's access to WMATA property, and/or the scope of work performed under this contract including any errors or omissions of the Vendor.

Printed Name

Authorized Signature / Date

Title

Company Name

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 when 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 it as soon as reasonably possible to restore the item to the same condition that pre-existed the loss or damage, in accordance with all requirements of this Contract, without cost to the Authority. Nothing contained herein shall be deemed to require the Contractor's repair or replacement of any loss or damage caused solely by the Authority's acts or omissions.
- (c) The following clause applies, if and when the Contractor performs work on its own property.
 - (1) WMATA retains title to all WMATA-furnished property, including, but not limited to _____. WMATA furnished property shall not become a fixture, or lose its identity as personal property by being attached to any real property. The Contractor shall use WMATA's property, furnished under this Contract, only for performing this Contract, unless the Contracting Officer approves otherwise. Modifications or alterations of WMATA property are prohibited, unless they are (i) Reasonable and necessary due to the technical specifications for this Contract; (ii) Required for normal maintenance; or (iii) Otherwise authorized by the Contracting Officer. Risk of loss is on the Contractor for WMATA-furnished property, i.e. the Contractor is liable for loss, theft, damage or destruction to WMATA property while it is in the Contractor's possession or control. The Contractor shall take all reasonable actions necessary to protect WMATA's property from loss, theft, damage or destruction. The Contractor shall do nothing to prejudice WMATA's rights to recover against third parties for any loss, theft, damage or destruction to WMATA's property.

4. INAPPLICABILITY OF CLAUSES REQUIRING UNAUTHORIZED OBLIGATIONS

- (a) Except where the Chief Procurement Officer specifically agrees in writing, when any supply or service acquired under this Contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), Master Agreement, Terms and Conditions or similar legal instrument or agreement, that includes any clause requiring WMATA to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability or that would create an unauthorized obligation, the following shall govern:
 - (i) Any such clause is unenforceable against WMATA.
 - (ii) Neither WMATA nor any authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar

legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an “I agree” click box or other comparable mechanism (e.g., “click-wrap” or “browse-wrap” agreements), execution does not bind WMATA or any WMATA authorized end user to such clause.

- (iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

- (b) When any supply or service acquired under this Contract is subject to any End Use License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, any clause requiring WMATA to pay pre-judgment interest, taxes to which it is exempt, or automatic fines is void and without effect.

CHAPTER VIII – INTELLECTUAL PROPERTY RIGHTS

1. PATENT INDEMNITY

The Contractor shall indemnify the Authority and its Board members, 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. If the Contractor is not the original equipment manufacturer (OEM) for a manufactured product purchased under this Contract, it will ensure that the patent holder provides indemnity to WMATA under this article. 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. Such indemnity shall not apply to:

- (1) An infringement resulting from compliance with the Contracting Officer's specific written instructions 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 that is unreasonably settled without the Contractor's consent, unless required by final decree of a court of competent jurisdiction.

2. SET-OFF

The Authority has common law, equitable and statutory rights to set-off. These rights shall include, but are not limited to, the Authority's right to set-off any monies due to the Contractor under this Contract, by any amounts due and owing to the Authority with regard to, any Contract with the Authority, 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 applicable law and 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 – LIMITED

Not Applicable.

4. RIGHTS IN TECHNICAL DATA – UNLIMITED

- a. The term technical data as used in this article means technical writings, computer software, sound recordings, pictorial reproductions, drawings, or other graphic representations and works of a technical nature, whether or not copyrighted, that 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 its designated representative shall have the right to use, duplicate or disclose technical data, 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 that is contained in or derived from:
 - (1) Any manuals, instructional materials prepared for installation, operation, maintenance or training purposes;
 - (2) Technical data pertaining to end items, components or processes that were prepared for the purpose of identifying sources, sizes, configurations, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data such as , specification control drawings, catalog sheets, and outline drawings Except for the computer software, it means data identifying sources, functional characteristics, and performance requirements, but specifically excludes the source code, algorithms, processes, formulae, and flow charts of the software.);
 - (3) Other technical data that the Contractor or subcontractor , normally furnishes without restriction; ;
 - (4) Other specifically described technical data that 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, algorithms, processes, formulae, and flow charts, that the Contractor developed or materially modified 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 as defined in paragraph (a), in whole or in part. 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 of the Authority,
 - (2) Used, in whole or in part, by the Authority for manufacturing, 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 this work, or (iii) administration of this Contract or the inspection of any products produced under it, 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 nondisclosure agreement.

- (d) Technical data provided in accordance with paragraph (c) shall be identified with a legend that suitably recites this limitation. This article shall not impair the Authority's right to use similar or identical data acquired from other sources.

- (e) Where any item is purchased as a separate line item in this Contract, that purchase includes all integral parts of that item, including any computer software, source code, algorithms, processes, formulae, and flow charts. 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 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 will be fully compatible with existing Authority property.
- (f) Material covered by copyright:
 - (1) The Contractor grants to the Authority, and to its Board members, agents and employees acting within the scope of their official duties, a royalty-free, nonexclusive and irrevocable license throughout the world for the Authority's purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all technical data and 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 promptly and in reasonable written detail each notice or claim of copyright infringement it receives regarding any technical data or 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) The Contracting Officer may retain from payment up to ten percent (10%) 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 Price Schedule or the Contract's specifications.

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 this Contract, once the Contractor is notified thereof.
- (b) In the event of any claim or suit against the Authority based on any alleged patent or copyright infringement arising out of this Contract or out of the use of any supplies furnished or services performed hereunder, the Contractor shall furnish to the

Contracting Officer, all evidence and information in its possession pertaining to such suit or claim. Such evidence and information shall be furnished at the Contractor's expense since the Contractor has agreed to indemnify the Authority for such infringement claims.

- (c) 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. §2000 (d), 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, D.C. law and Federal transit law at 49 U.S.C. §5332, the Contractor, sub-recipient, or subcontractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, age, sexual preference, gender identity and/or disability. In addition, the Contractor, sub-recipient, or subcontractor agrees to comply with applicable Federal implementing regulations and other regulations that FTA 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. §2000(e), 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) including, but not limited to "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Part 60 *et. seq.*, [implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000(e) 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 this 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 that FTA 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 FTA 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 FTA 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 FTA, modified only, if necessary, to identify the affected parties.
- (d) Failure by the Contractor, sub-recipient, or subcontractor to carry out these requirements is a material breach of this Contract, that may result in the termination 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 U.S. Secretary of Labor thereunder.

- (a) *Overtime requirements.* No Contractor or subcontractor contracting for any part of the Contract work that may involve the employment of laborers, mechanics, apprentices, trainees, watchmen, and guards shall require or permit any such employee in any workweek in which he or she is employed to work in excess of forty (40) hours in such work week on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such employee receives compensation at a rate not less than one and one-half (1 ½) times his or her basic rate of pay for all hours worked in excess of forty (40) hours in such work week.
- (b) *Violation. Liability for Unpaid Wages- Liquidated damages.* In the event of any violation of paragraph (a) the Contractor and any subcontractor responsible therefore shall be liable to any affected employee for his or her unpaid wages. In addition, such Contractor and subcontractor shall be liable to the Authority for liquidated damages. Liquidated damages shall be computed with respect to each individual laborer, mechanic, apprentice, trainee, watchman or guard employed in violation 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, such sums as he or she determines to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in paragraph (b).
- (d) *Subcontracts.* The Contractor shall insert this article in all subcontracts at any tier. Contractor shall also require subcontractors to include this clause in any lower tier subcontracts. The Contractor shall be responsible for compliance by any and all subcontractors at every tier.

- (e) *Records.* The Contractor shall maintain payroll records containing the information specified in 29 C.F.R. § 516.2(a). Such records shall be preserved for three (3) years from the completion of this Contract.

3. WALSH-HEALEY PUBLIC CONTRACTS ACT

Not Applicable.

4. DAVIS-BACON ACT

Not Applicable.

5. COPELAND ANTI-KICKBACK ACT – FTA

Not Applicable.

6. 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 Federal Government, 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—
 - (a) The worker is paid or is in an approved work or training program on a voluntary basis;
 - (b) Representatives of the local union’s central bodies or similar labor union organizations have been consulted;
 - (c) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades where there is a surplus of available gainful labor in the locality, or impair existing contracts or services;
 - (d) 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 where the work is being performed; and
 - (e) 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.

7. COVENANT AGAINST CONTINGENT FEES

- (a) The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement 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 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 otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee, if no fraud is suspected.
- (b) If fraud is suspected, the Authority's only remedy prior to final adjudication by a court of competent jurisdiction is to report the matter to WMATA's Office of Inspector General (OIG), the U.S. Department of Transportation's Office of Inspector General (DOT-OIG), the Offices of Inspectors General of any agency providing funding under this Contract and/or appropriate Federal, state and/or local law enforcement authorities.

8. 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 these requirements in each subcontract awarded for work relating to this Contract.

9. 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.

10. LAWS AND REGULATIONS

The Contractor shall be responsible to comply with any applicable State of Maryland, Commonwealth of Virginia, District of Columbia, Federal and local laws and regulations governing the services and/or supplies to be provided under this 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 where work will be performed.

11. HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA

Not Applicable.

12. LIVING WAGE

- (a) 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 \$150,000 in a twelve (12) month period. If this Contract meets those criteria, the following requirements are applicable:

- (b) The Authority's living wage rate is \$13.85 per hour, and may be reduced by the Contractor's per-employee cost for health insurance.
- (c) 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 this "Living Wage" article in all subcontracts that exceed \$150,000 in a twelve (12) month period awarded under this Contract;
 - (3) Maintain payroll records, in accordance with the requirements of this Contract, and 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's 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.
 - (5) The Contractor shall not split or subdivide this Contract, pay an employee through a third party, or treat an employee as a subcontractor or independent contractor to avoid compliance with this "Living Wage" article
- (d) Exemptions to this "Living Wage" article include:
 - (1) Contracts and agreements subject to higher wage rates required by 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 rates. 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 Policy shall result in the Authority's right to exercise available contract remedies, including contract termination, where no fraud is suspected.
- (g) If fraud is suspected, the Authority's only remedy prior to adjudication by a court of competent jurisdiction is to report the matter to WMATA's Office of Inspector General (OIG), the U.S. Department of Transportation's Office of Inspector General (DOT-OIG), the Offices of Inspectors General of any state or Federal agency providing funding under this Contract and/or appropriate Federal, state and/or local law enforcement authorities.

13. METRIC SYSTEM

To the extent the Federal Government directs, the Contractor agrees to use the metric system of measurement in its Contract activities, in accordance with the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. § 205 (a) *et. seq.*; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. § 205(a) 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.

14. MANDATORY DISCLOSURE

The Contractor shall timely disclose, in writing, to WMATA's Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this Contract or any subcontract hereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed—

- (a) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or
- (b) A violation of the civil False Claims Act (31 U.S.C. §§ 3729-3733).
 - (1) WMATA, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor's disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. To the extent permitted by the law and regulation, such information will not be released by WMATA to the public pursuant to a Public Access to Records (PARP) request. WMATA may transfer documents provided by the Contractor to any department or agency within the state, Federal or local government, if the information relates to matters within the organization's jurisdiction.
 - (2) If the violation relates to an order against a government-wide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the OIG of the agency responsible for the basic contract.

15. WHISTLEBLOWER PROTECTION – NON-FEDERAL

- (a) The Contractor and its subcontractors shall encourage their 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's 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), via email at wmata-oig-hotline@verizon.net or by any other reasonable means;
 - (2) WMATA's Metro Transit Police 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 Contractor or subcontractor of the condition and of his or her intent not to perform or authorize work.

- (d) The Contractor shall include, or shall cause to be included, the substance of this clause, including this paragraph (d), in its subcontracts.

16. WORKPLACE VIOLENCE/ZERO TOLERANCE

Pursuant to Metro Policy/Instruction 7.8.3, all Metro Contractors must: (1) establish zero tolerance for acts of workplace violence for their employees and those of subcontractors at any tier, and (2) not retaliate against any of their employees or independent contractors for cooperating with investigations.

17. DRUG AND ALCOHOL TESTING (FOR SAFETY SENSITIVE FUNCTIONS ONLY)

Not Applicable.

18. EMPLOYMENT RESTRICTION WARRANTY

- (a) The Contractor warrants that it will not offer employment to, solicit or discuss prospective employment with, or otherwise engage in substantive employment related discussions or communications with, any present or former Board member of the Authority who has been involved, directly or indirectly, in any matter of financial interest to the Contractor until at least two (2) years after the Board member has ceased involvement in the matter. The post-employment restriction on former Authority employees is one (1) year from the date of their last employment with WMATA. The Contractor shall not knowingly engage in communications of the nature described above with any immediate family member or member of the household of any Authority employee or Board member during the period when such employee or Board member is involved in any matter of financial interest to the Contractor.
- (b) If a former Board member or employee of the Authority is eventually hired, the Contractor shall ensure that the former Board member or employee is not involved in negotiating or otherwise dealing with the Authority on any particular matter over which he or she had responsibility during his or her tenure.
- (c) Should the Contractor fail to comply with the provisions hereof, and no fraud is suspected, the Contracting Officer shall have the right to withhold payment under this Contract in an amount not to exceed two percent (2%) of the total Contract amount as liquidated damages to the Authority, such withholding to be in addition to any other withholding or retainage under this Contract. Any dispute shall be settled in accordance with the "Disputes" clause of this Contract.
- (d) If fraud is suspected, the Authority's only remedy prior to a final decision by a court of competent jurisdiction is to report the matter to WMATA's Office of Inspector General (OIG), the U.S. Department of Transportation's Office of Inspector General (DOT-OIG), the Offices of Inspectors General of any state or Federal agency providing funding under this Contract and/or appropriate Federal, state and/or local law enforcement authorities.

19. GRATUITIES

- (a) In connection with performance of 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 Contractor, to any Board member, employee or agent of the Authority; with a view toward securing this Contract or securing favorable treatment regarding this Contract is expressly forbidden. The terms of this "Gratuities" clause 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" clause will be investigated by the Authority's 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 clause exists. If such probable cause exists, the Board of Directors, or its duly authorized representative, shall formally notify WMATA's Office of Inspector General (OIG), the U.S. Department of Transportation's Office of Inspector General (DOT-OIG), the Offices of Inspectors General of any state or Federal agency providing funding under this Contract and/or appropriate Federal, state and/or local law enforcement authorities.
- (c) The rights and remedies of the Authority provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided under this Contract, at law or in equity.

20. OFFICIALS NOT TO BENEFIT

- (a) No member of or delegate to the U.S. Congress, resident commissioner or member of a state or local public body shall be admitted to any share or part of this Contract, or to any benefit that may arise therefrom during his or her tenure or for two (2) years thereafter, unless his or her interest in the business entity that is awarded this Contract is placed in a blind trust in accordance with the rules and regulations of the U.S. Office of Government Ethics (OGE).
- (b) Enforcement of this clause shall be consistent with 18 U.S.C. §431.

21. ORGANIZATIONAL CONFLICTS OF INTEREST

- (a) An organizational conflict of interest (OCI) exists when the nature of the work to be performed under a proposed contract or a subcontract may, without some restriction on future activities result in an unfair competitive advantage to the Contractor or subcontractor; because of (1) unequal access to information, (2) biased ground rules or (3) impaired objectivity. An unequal access to information OCI may exist if in performing a Contract, a Contractor obtains access to non-public information that provides it with a competitive advantage in a later competition. A biased ground rules OCI may exist if the Contractor has a role in setting rules for a source selection in which it will compete. An impaired objectivity OCI may exist if, in performing a

Contract, a Contractor is called upon to evaluate an offer from or performance by, itself or an affiliated entity.

- (b) In the event that the Contractor believes that it or any of its potential subcontractors may have an OCI, it shall notify the Contracting Officer, in writing, within five (5) working days after it becomes aware of the potential or actual OCI. 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 plan and notify the Contractor stating whether: (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 additional measures.
- (c) The Contractor's failure to identify such perceived conflicts may result in the Contract being rescinded or terminated.
- (d) Should the Contractor identify or become aware of a conflict during the term of this Contract, including any extension thereof that it could not reasonably anticipate prior to award, it shall notify the Contracting Officer in accordance with paragraph (b), 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, he or she may terminate the Contract. If the Contracting Officer does not grant a request for an exception, 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 actions to comply with this clause.
- (f) If the proposed measures are determined to be acceptable to the Contracting Officer, he or she 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 another contractual or other relationship.
- (g) If the Contractor fails to comply with the terms of this clause, and no fraud is suspected, the Contracting Officer, may withhold payments due under this Contract until such time as the Contractor is in compliance or, should the non-compliance remain uncorrected at the expiration of ten (10) days from the Contracting Officer's written notice as provided in paragraph (b), terminate the contract for default pursuant to this Contract.
- (h) If fraud is suspected, the Authority's only remedy prior to a final determination by a court of competent jurisdiction is to report the matter to WMATA's Office of Inspector General (OIG), the U.S. Department of Transportation's Office of Inspector General (DOT-OIG), the Offices of Inspectors General of any state or Federal agency providing funding under this Contract and/or appropriate Federal, state and/or local law enforcement authorities.
- (i) The Contractor, in performing this Contract, shall avoid any conduct that might result in or give the appearance of creating for Board members 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 Board member, or employee failing to adhere to any Code of Ethics or standards of conduct adopted by the Authority's Board of Directors.

- (j) The Contracting Officer's determination under this clause shall be final and shall be considered a question of fact within the meaning of the "Disputes" article of this Contract.

22. CONTRACTOR PERSONNEL

- (a) The Authority may direct the replacement of the Contractor's employees 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 Authority. 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 the Contract.
- (b) Contractor personnel required to work on WMATA's property must obtain a WMATA vendors' badge and successfully complete the mandatory safety training that must be renewed yearly. The Contractor must advise its affected personnel that, to obtain a vendor's badge, a signed waiver to perform a background check is required.

23. FALSE STATEMENTS, CLAIMS OR SUBMISSIONS

- (a) The Contractor acknowledges its responsibility to undertake its obligations under this publicly funded Contract with full integrity and, to take all reasonable steps to ensure that statements, claims and submissions made pursuant to this Contract are provided in good faith and with a reasonable belief as to their truthfulness, accuracy and completeness.
- (b) In the event that it is finally determined by a court of competent jurisdiction that any statement, claim, submission, or certification made by or on behalf of the Contractor pursuant to a material element of the Contract was knowingly false, fictitious or fraudulent, the Authority shall be entitled to recover from the Contractor, an amount equal to not more than three (3) times the monetary value of the benefit derived or sought to be derived by the Contractor through its false statement, claim or submission. For purposes hereof, an element of the Contract shall be deemed material if it impacted or could reasonably have been intended to impact the disposition of any claim, dispute, proposed or implemented change order, proposed pricing or schedule adjustment of any nature, or other substantive issue directly affecting the rights of the parties under the Contract.

- (c) The Authority's only remedy prior to a final determination by a court of competent jurisdiction is to report the matter to WMATA's Office of Inspector General (OIG), the U.S. Department of Transportation's Office of Inspector General (DOT-OIG), the Offices of Inspectors General of any state or Federal agency providing funding under this Contract and/or appropriate Federal, state and/or local law enforcement authorities.

- (d) The Authority's rights set forth in this article are in addition to any contractual, legal or equitable rights that may arise upon the Contractor's submission of a false claim or statement, including without limitation, the Authority's right to terminate the Contract for default once fraud is finally determined by a court of competent jurisdiction. The provisions of this clause shall not serve in any respect to limit, waive or modify any civil or criminal liability, of the Contractor or any of its officers, agents or employees that 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) If a statute, court decision, written ruling or regulation regarding any Federal excise tax or duty on the transactions or property covered by this Contract takes effect after the Contract date, and:
- (c) Results in the Contractor being required to pay or bear the burden of any such Federal excise tax or duty or rate increase 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, if the Contractor warrants in writing that no amount for such newly imposed Federal obligation was included in the Contract price as a contingency reserve or otherwise; or
- (d) Results in the Contractor not being required to pay or bear the burden of, or in its obtaining a refund or drawback of, any 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 the Contracting Officer directs. If the Contractor fails to follow the Contracting Officer's instructions, it will be required to pay or bear the burden of, any such Federal excise tax or duty through a decrease in the Contract price.
- (e) Paragraph (b) above shall not be applicable to social security taxes or to any other employment tax.
- (f) No adjustment of less than \$250 shall be made in the Contract price pursuant to paragraph (b).
- (g) As used in paragraph (b), the term "Contract date" means the date the Contract was executed by the Authority. As to additional services, supplies or construction procured by modification to this Contract, the term "Contract date" means the effective date of such modification.
- (h) 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 clause and shall take action as the Contracting Officer directs. 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.

2. PUBLIC COMMUNICATION

The Contractor shall not issue communications to the media, place advertisements, nor publicize through any means the services, goods or construction that it is providing to 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 without the Contracting Officer's prior, written consent. Approval of any such requests shall be at the Contracting Officer's sole discretion.

3. 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 where venue properly resides.

4. 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.

5. SURVIVAL

Any provision expressly set forth as surviving the expiration or termination of this Contract, shall be deemed to survive any such expiration or termination.

CHAPTER XI – ADDITIONAL PROVISIONS

1. AMERICANS WITH DISABILITIES ACT ACCESSIBILITY

- (a) The Contractor agrees that it will operate public transportation services in compliance with 42 U.S.C. § 12101 *et seq.*; DOT regulations, “Transportation Services for Individuals with Disabilities (ADA)” using facilities and equipment that comply with 49 C.F.R. Part 37; and Joint ATBCB/DOT regulations, “Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. Part 1192 and 49 C.F.R. Part 38. Private entities must comply with the requirements of 49 C.F.R. Part 37 applicable to public entities with which they contract to provide public transportation services.
- (b) Facilities to be used in public transportation service must comply with 42 U.S.C. § 12101 *et seq.*; DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. Part 37; and Joint ATBCB/DOT regulations, “Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. Part 1192 and 49 C.F.R. Part 38.

2. RETAINAGE

No provision of this Contract shall serve to deny Contractor’s entitlement to full payment for properly performed work or suitably stored materials. No amounts shall be withheld from any payment request submitted by Contractor based on percentage of the work performed during the period of performance and no amounts shall be assigned to the line items, other than as assigned by Contractor in its payment requests.

3. GOVERNMENT-WIDE DEBARMENT OR SUSPENSION

- (a) The Contractor is bound by its certification contained in its bid that neither the Contractor its principals, or affiliates, are excluded or disqualified, from Federal contracting. The certification is a material representation of fact, relied upon by the Authority in entering into this Contract. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to the Authority, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 C.F.R, part 180, subpart C as adopted and supplemented by U.S. DOT regulations at 2 C.F.R, part 1200 “Nonprocurement Suspension and Debarment,” including any amendments thereto, Executive Orders Nos. 12549 and 12689 “Debarment and Suspension” 31 U.S.C. § 6101 note, and other applicable Federal laws, regulations or guidance regarding participation with debarred or suspended contractors throughout the term of this Contract.
- (b) Flow-down requirement. The Contractor agrees to include this article in all subcontracts at all tiers under this Contract requiring lower tier contractors to comply with Federal suspension and debarment requirements, and review the System for Award Management (SAM) at www.sam.gov in order to comply with U.S. DOT regulations at 2 C.F.R, Part 1200 prior to awarding any subcontract under this Contract.

4. FALSE STATEMENTS OR CLAIMS CIVIL AND CRIMINAL FRAUD

- (a) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U. S. C. § 3801 *e.t seq.* and U. S. DOT Regulations, "Program Fraud Civil Remedies," 49 C.F. R. Part 31, apply to its actions pertaining to this Contract. Upon execution of this Contract, the Contractor certifies and affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this Contract or FTA assisted project for which this Contract is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent that it deems appropriate.
- (b) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U. S. C. 5307, the Government reserves the right to impose the penalties of 18 U. S. C. 1001 and 49 U. S. C 5307 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- (c) Flow-down requirement. The Contractor agrees to include this clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to the provisions.

5. PROGRESS PAYMENTS

When satisfactory progress has not been achieved by a Contractor during any period for which a progress payment is to be made, a percentage of the progress payment may be retained. Retainage should not be used as a substitute for good contract management, and the Contracting Officer should not withhold funds without cause. Determinations to retain and the specific amount to be withheld shall be made by the Contracting Officer on a case-by-case basis. Such decisions will be based on the Contracting Officer's assessment of past performance and the likelihood that such performance will continue.

6. BONDING FOR CONSTRUCTION PROJECTS EXCEEDING \$150,000

Not Applicable.

7. BONDING REQUIREMENTS- GENERAL

- (a) Performance and Payment Bonding Requirements (Non-Construction). The Contractor may, as a condition to the issuance of a Notice to Proceed, be required to obtain performance and payment bonds on forms acceptable to the Authority when necessary to protect the WMATA's interests. The following situations may warrant a performance bond:

- (1) WMATA's property or funds will be provided to the Contractor for use in performing the Contract or as partial compensation (as in retention of salvaged material).
 - (2) If Contractor sells assets to or merges with another concern, and WMATA, after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.

Substantial progress payments will be made before the delivery of end items begins.
 - (3) This Contract is for dismantling, demolition, or removal of improvements.
- (b) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds, as follows:
- (1) The penal amount of performance bonds shall be one hundred percent (100%) of the original Contract price, unless WMATA determines that a lesser amount would be adequate for its protection.
 - (2) WMATA may require additional performance bond protection when the Contract price is increased. The increase in protection shall generally equal one hundred percent (100%) of the increase in Contract price. WMATA may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.
- (c) A payment bond is required only when a performance bond is required, and if the use of payment bond is in WMATA's interests. When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:
- (1) Fifty percent (50%) of the Contract price, if it is not more than \$1,000,000;
 - (2) Forty percent (40%) of the Contract price, if it is more than \$1,000,000, but not more than \$5,000,000; or
 - (3) Two and one half million (\$2,500,000), if the Contract price is increased.
- (d) *Advance Payment Bonding Requirements.* The Contractor may be required to obtain an advance payment bond, if the Contract contains an advance payment provision and a performance bond is not furnished. WMATA shall determine the amount of the advance payment bond necessary to protect it.
- (a) *Patent Infringement Bonding Requirements (Patent Indemnity).* The Contractor may be required to obtain a patent indemnity bond, if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. WMATA shall determine the amount of the patent indemnity required to protect it.
- (f) *Warranty of the Work and Maintenance Bonds.* The Contractor warrants to WMATA, the architect and/or engineer that all materials and equipment furnished under this Contract will be of highest quality and new, unless WMATA specifies otherwise, free

from faults and defects and in conformance with the Contract. All work not conforming to these standards shall be considered defective. If required by the Project Manager, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

- (1) The work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The work must be safe, substantial and durable in all respects. The Contractor hereby guarantees that the work will not contain defective materials or faulty workmanship for a minimum period of one (1) year after final payment by WMATA. The Contractor shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to WMATA. As additional security for these guarantees, the Contractor shall, prior to the release of final payment, furnish separate maintenance (or guarantee) bonds in a form acceptable to WMATA written by the same corporate surety that provides the performance bond and labor and material payment bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after final payment and shall be written in an amount equal to one hundred percent (100%) of the Contract amount, as adjusted.

CHAPTER XII-WMATA POLICIES

1. SAFETY REQUIREMENTS

Not Applicable.

2. CRIMINAL BACKGROUND CHECK REQUIREMENT

- (a) As a prerequisite to eligibility for a WMATA-issued identification and access badge (“One Badge”), access to WMATA’s customers, property, or confidential information, and in consideration for this Contract, the Contractor shall have the sole responsibility for, and shall assure, adequate criminal background screenings on a routine basis of all of its personnel who are or will be working on WMATA’s premises (whether they receive a One Badge or not) or otherwise have access to WMATA’s customers, property, or confidential information.
- (b) Contractor shall implement, not later than notice to proceed, a criminal background check screening of the Contractor’s personnel that shall take into consideration (1) the nature of the services or work being performed under the contract with particular regard for the individual’s access to, and interaction with, WMATA’s customers, property, and confidential information; (2) the nature or gravity of the offense or conduct resulting in a criminal conviction; and (3) the time that has lapsed since the conviction and/or completion of the sentence.
- (c) The Contractor shall contract with, or otherwise engage, a reputable third-party vendor to conduct the required criminal background screenings, and shall provide the vendor with a copy of its criminal background check screening policies and procedures.
- (d) The Contractor shall not place any person on or engage any person under this Contract, unless that person passes the Contractor’s criminal background screening. At the end of each calendar quarter, the Contractor shall certify to the Contracting Officer’s Technical Representative on a form provided, its compliance with this criminal background screening requirement and confirm that all persons required to be screened passed the contractor’s criminal background screening before working on this Contract. For the sole purpose of monitoring the Contractor’s compliance, WMATA reserves the right to request additional documents or perform its own criminal background screening of Contractor’s personnel. The Contracting Officer will inform the Contractor, in writing, of any proposed action within a reasonable time before such action is taken.
- (e) The Contractor shall indemnify and hold WMATA harmless from any and all claims, demands, damages, costs and expenses, including attorneys’ fees and other costs and expenses associated with any claims, demands, requests for relief, and/or other liabilities arising out of or resulting from the contractor’s criminal background screening obligations and processes.
- (f) The Contractor will include this requirement in all subcontracts under this Contract, and receive certifications from their subcontractors to ensure that its subcontractors’

personnel who are or will be working on WMATA's premises (whether they receive a One Badge or not) or otherwise have access to WMATA's customers, property, or confidential information undergo the required criminal background checks.

3. WORKPLACE VIOLENCE/ZERO TOLERANCE

Pursuant to Metro Policy/Instruction 7.8.3, all Metro Contractors and subcontractors at any tier must: (1) establish zero tolerance for acts of workplace violence for their employees and independent contractors, and (2) not retaliate against any of their employees or independent contractors for cooperating with investigations.



MID-ATLANTIC COOPERATIVE RIDER CLAUSE

The Mid-Atlantic Purchasing Team (MAPT) is the agreement between the Metropolitan Washington Council of Governments (“MWCOG”) and the Baltimore Metropolitan Council (“BMC”) to aggregate the public entity and non-profit purchasing volumes in the Maryland, Virginia and Washington, D.C. region (“region”).

Format

A lead agency format is used to accomplish this work. The Lead Agency in this procurement has included this MAPT Cooperative Rider Clause in this solicitation indicating its willingness to allow other public entities to participate pursuant to the following Terms and Conditions:

1. Terms
 - 1.1 Participating entities, through their use of the Cooperative Rider Clause, agree to the terms and conditions of the resulting contract to the extent that they can be reasonably applied to the participating entity.
 - 1.2 Participating entities may also negotiate additional terms and conditions specific to their local requirements upon mutual agreement between the parties.
2. Other Conditions - Contract and Reporting
 - 2.1 The contract resulting from this solicitation shall be governed by and "construed in accordance with the laws of the State/jurisdiction in which the participating entity officially is located;
 - 2.2 To provide to MWCOG and/or BMC contract usage reporting information, including but not limited to quantity, unit pricing and total volume of sales by entity, as well reporting other participating entities added on the contract, on demand and without further approval of contract participants;
 - 2.3 Contract obligations rest solely with the participating entities only;
 - 2.4 Significant changes in total contract value may result in further negotiations of contract pricing with the lead agency and participating entities.

In pricing and other conditions, vendors are urged to consider the broad reach and appeal of MAPT with public and non-profit entities in this region.

A list of the participating members of the Mid-Atlantic Purchasing Team can be found at the following web links www.mwcog.org/purchasing-and-bids/cooperative-purchasing/member-links/ and <http://www.baltometro.org/our-work/cooperative-purchasing/brcpc-representatives>

BOND FORMS

PERFORMANCE BOND	
Contract No.:	Contract Date:
Penal Sum of Bond:	
Date Bond Executed:	
<p>KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety(ies) hereto, are firmly bound to the Washington Metropolitan Area Transit Authority (hereinafter called the Authority) in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally: Provided, that, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.</p> <p>THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into the contract identified above:</p> <p>NOW, THEREFORE, if the Principal shall perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the Authority, with or without notice to the Surety(ies), and during the life of any guaranty required under the contract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the Surety(ies) being hereby waived, then the above obligation shall be void and of no effect.</p> <p>IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this performance bond and have affixed their seals on the date set forth above.</p> <p style="text-align: center;">Principal(s)</p>	
1. Firm Name and Address: Signature: _____ Name and Title:	Corporate Seal State of Inc.:
2. Firm Name and Address: Signature: _____ Name and Title:	Corporate Seal State of Inc.:
3. Firm Name and Address: Signature: _____ Name and Title:	Corporate Seal State of Inc.:

PERFORMANCE BOND – Page 2

Corporate Sureties				
Surety A	Surety Name and Address: Signature: _____ Name and Title:		Liability Limit \$	(Seal)
Surety B	Surety Name and Address: Signature: _____ Name and Title:		Liability Limit \$	(Seal)
Surety C	Surety Name and Address: Signature: _____ Name and Title:		Liability Limit \$	(Seal)
Attach additional pages as needed.				
	Bond			
	Premium			
	Schedule	Total Premium	\$	
Instructions				
1.	This form is authorized for use in connection with contracts for construction work or the furnishing of supplies and services.			
2.	The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of this form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership or joint venture, or an officer of the corporation involved, evidence of his authority must be furnished.			
3.	Corporation executing the bond as sureties must be among those appearing on the Treasury Department's list of approved sureties and must be acting within the limitations set forth therein. Where more than a single corporate surety is involved, their names and addresses (city and State) shall be inserted in the spaces (Surety A, Surety B, etc.) headed "Corporate Sureties".			
4.	Corporations executing the bond shall affix their corporate seals.			
5.	The name of each person signing this performance bond should be typed in the space provided.			
6.	The date this bond is executed must be the same date as the contract execution date.			

PAYMENT BOND

Contract No.

Contract Date:

Penal Sum of Bond:

Date Bond Executed:

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety(ies) hereto, are firmly bound to the Washington Metropolitan Area Transit Authority (hereinafter called the Authority) in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally: Provided, that, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into the contract identified above:

NOW, THEREFORE, if the Principal shall promptly make payment to all claimants as hereinafter defined supplying labor and material in the prosecution of the work provided for in said contract, and any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the Surety(ies) being hereby waived, then the above obligation shall be void and of no effect, otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the CONTRACT.
2. The above-named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due the claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.
3. No suit or action shall be commenced hereunder by any claimant:
 - a. Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to the Principal within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal at any place where he maintains an office or conducts business, or his residence or such notice shall be served in any manner in which legal process may be served in the state or District of Columbia in which the aforesaid project is located, save that such service need not be made by a public officer.
 - b. After the expiration of one (1) year following the date of final settlement of said CONTRACT, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
 - c. Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

PAYMENT BOND page 2

IN WITNESS WHEREOF, the Principal and Sureties have executed this payment bond and have affixed their seals on the date set forth above.			
Principal(s)			
1.	Firm Name and Address: Signature: Name and Title:	State of Inc.:	Corporate Seal
2.	Firm Name and Address: Signature: Name and Title:	State of Inc.:	Corporate Seal
3.	Firm Name and Address: Signature: Name and Title:	State of Inc.:	Corporate Seal
Corporate Sureties			
	Surety Name and Address:	Liability Limit	(Seal)
A	Signature:	\$	
	Name and Title:	State of Inc.:	
B	Signature:	\$	
	Name and Title:	State of Inc.:	
C	Signature:	\$	
	Name and Title:	State of Inc.:	
Attach additional pages as needed.			
Instructions			
1.	This form is authorized for use in connection with contracts for construction work or the furnishing of supplies and services.		
2.	The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of this form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership or joint venture, or an officer of the corporation involved, evidence of his authority must be furnished.		
3.	Corporation executing the bond as sureties must be among those appearing on the Treasury Department's list of approved sureties and must be acting within the limitations set forth therein. Where more than a single corporate surety is involved, their names and addresses (city and State) shall be inserted in the spaces (Surety A, Surety B, etc.) headed "Corporate Sureties".		
4.	Corporations executing the bond shall affix their corporate seals.		
5.	The name of each person signing this payment bond should be typed in the space provided.		
6.	The date this bond is executed must be the same date as the contract execution date.		

PROPOSAL SECURITY (PROPOSAL BOND FORM)
Submit with Price Proposal

Request for Proposal No.: _____ Proposal Date: _____
 Penal Sum of Bond: _____ 5% of Offered Price or Amount, \$:
 Date Bond Executed: _____

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety(ies) hereto, are firmly bound to the Washington Metropolitan Area Transit Authority in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally: Provided, that, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the proposal identified above:

NOW, THEREFORE, if the Principal, upon acceptance by the Authority of his proposal identified above, within the period specified therein for acceptance (ninety [90] days if no period is specified), shall execute such further contractual documents, if any, and give such bond(s) as may be required by the terms of the proposal as accepted within the time specified (ten [10] days if no period is specified) after receipt of the forms by him, or in the event of failure so to execute such further contractual documents and give such bonds, if the Principal shall pay the Authority for any cost of procuring the work which exceeds the amount of his proposal, then the above obligation shall be void and of no effect.

Each Surety executing this instrument hereby agrees that its obligation shall not be impaired by any extension(s) of the time for acceptance of the proposal that the Principal may grant to the Authority notice of which extension(s) to the Sureties being hereby waived provided that such waiver shall apply only with respect to extensions aggregating not more than ninety (90) calendar days in addition to the period originally allowed for acceptance of the proposal.

Principal(s)

	Corporate Seal
1. Firm Name and Address: Signature: _____	State of Inc.: _____
	Corporate Seal
2. Firm Name and Address: Signature: _____	State of Inc.: _____
	Corporate Seal
3. Firm Name and Address: Signature: _____	State of Inc.: _____

PROPOSAL SECURITY (PROPOSAL BOND FORM) - Continued - page 2

Corporate Sureties				
Surety A	Surety Name and Address: Signature: _____ Name and Title:		Liability Limit \$ _____ State of Inc.:	(Seal)
Surety B	Surety Name and Address: Signature: _____ Name and Title:		Liability Limit \$ _____ State of Inc.:	(Seal)
Surety C	Surety Name and Address: Signature: _____ Name and Title:		Liability Limit \$ _____ State of Inc.:	(Seal)
Attach additional pages as needed.				
Instructions				
<ol style="list-style-type: none"> 1. This form is authorized for use whenever a proposal guaranty is required in connection with construction work or the furnishing of supplies and services. 2. The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of this form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership or joint venture, or an officer of the corporation involved, evidence of his authority must be furnished. 3. The penal sum of the bond shall be expressed as either a percentage of the proposal price or in dollars and cents. 4. Corporation executing the bond as sureties must be among those appearing on the Treasury Department's list of approved sureties and must be acting within the limitations set forth therein. Where more than a single corporate surety is involved, their names and addresses (city and State) shall be inserted in the spaces (Surety A, Surety B, etc.) headed "Corporate Sureties". 5. Corporations executing the bond shall affix their corporate seals. 6. The name of each person signing this proposal bond should be typed in the space provided. 				

**PART III TECHNICAL SPECIFICATIONS
[SCOPE OF WORK]**



Scope of Work, ICE, SEP

Washington
Metropolitan
Area
Transit
Authority

Project Title:

Motor Vehicle Record Services

Introduction

The Washington Metropolitan Area Transit Authority (WMATA) or Metro is the transit provider for the National Capital Region, providing safe, clean and reliable service to both residents and visitors. Our customers include more than a third of the federal government workforce and millions of tourists who visit the Nation’s Capital every year. Metro operates the second largest heavy rail transit system, sixth largest bus network, and fifth largest paratransit service in the United States.

WMATA seeks to enter into a contract with a qualified contractor for the monitoring of motor vehicle records (MVRs) of its employees who are entrusted with the safety of its customers, the general public, and its fellow employees.

Current Scope of Work.

The intent of this invitation for bid is to select a qualified contractor who will conduct a motor vehicle records (MVR) monitoring service for an estimated 5,000 to 8,000 WMATA employees on a monthly basis. The contractor shall monitor and report the employee’s violations and report the violations to a designated WMATA representative. The MVR shall be submitted based on issuing agency turnaround times.

It is a WMATA policy to perform background screenings on existing employees and temporary staff on an as-needed basis. WMATA is authorized to require employees to have their MVRs monitored for the duration of employment. This is consistent with the commitment to public safety, security, and policy requirements.

Deliverables

The successful contractor’s task will be limited to providing MVRs monitoring, reporting, and prompt invoicing. The contractor shall also have the necessary technology, infrastructure, and required software solution to interface with various state licensing agencies in order to perform Motor Vehicle Records (MVRs) monitoring.

The contractor shall provide MVRs monitoring for drivers with and without commercial driver license (CDL) endorsements that monitor violations and/or suspensions to include but not limited to:

1. Newly issued driver citations
2. Speeding tickets
3. Suspensions / revocations
4. DUIs / DWIs
5. Driver license expiration, and
6. CDL medical certificate expiration

The contractor shall provide the Metro representative with a baseline MVRs pull within thirty (30)-days of notice to proceed for all individuals selected to be monitored under this contract. In addition, the contractor shall provide the following support task:

1. Perform MVRs monitoring throughout the entire duration of a month for all individuals WMATA selected to be monitored under this contract.

2. Provide WMATA administrators with access to a password-protected, internet-based interface. This solution shall have a dashboard that is user-friendly that quickly allows WMATA's designated representatives to review individuals with violations on their MVRs. WMATA will have between 10 -25 Metro representatives requiring logins.
3. Provide training services on the use of software, and be available between 8:00AM to 5:00 PM EST for assistance to Metro representatives to include, but is not limited to, exchange and retrieval of data, interpreting results, and software support.

The contractor shall adhere to the below reporting requirements:

1. Provide a baseline report in XML and PDF format within thirty (30) days of notice to proceed to include employee number, employee department, issuing state or territory, driver license number, driver license expiration, any endorsements (including CDL), CDL medical certificate expiration if applicable, violations and/or suspensions that appear on an individual's MVRs.
2. Provide a daily report in XML and PDF format to include a detail list for any new violations and/or suspensions that appear on an individual's MVR. The contractor shall ensure all individuals WMATA selects for MVRs monitoring are monitored each month. If no new violations and/or suspensions appear for a given day, there is no requirement to send a daily report.
3. Ad-hoc reporting as needed by WMATA, delivered in an XML format.

The data on all Authority systems is confidential and both the contractor and each member of the contractor's staff and sub-contractors will be required to sign a WMATA confidentiality statement. When special security issues are present, such as during the recovery of encrypted data, or when using Administration rights for recovery, the contractor must use the WMATA Security Standards to protect the data.

The contractor shall submit detailed, itemized billing invoices and each invoiced line item amount must include the following information:

1. Name and SS/EIN of individual/entity screening
2. Employee Department
3. Order date
4. Completion date
5. Name of requesting WMATA official
6. Screening service fee. The Contractor must issue and submit invoices monthly and in duplicate.

An itemized invoice must be provided directly to the designated WMATA representative. A second hard copy of a summarized invoice must be provided directly to the Comptroller's Office. Contractor invoice must be itemized by expense category and include quantity, unit price, line total and grand total. Invoice must also identify contractor name and address and purchase order number.

Invoice data must also be submitted electronically in a secured file, preferably XML format. This electronic file shall be provided to WMATA within seventy-two hours from the time the paper

invoices have been prepared as described above. Any amended invoices or interim invoices shall also be provided in the same electronic format.

To ensure the success of this engagement, WMATA will assign resources to fulfill the following responsibilities:

1. Designation of a contracting official technical representative(s) (COTR) for the duration of the contract. It is possible WMATA will designate more than one COTR for the execution of this contract.
2. WMATA will exchange all relevant data/information securely through web applications/services pertaining individuals selected for MVRs monitoring.
3. WMATA shall provide a list of active employees and a list of employees who are no longer required to have MVRs monitoring performed to the contractor.
4. WMATA will maintain a copy of consent forms for each employee who are covered under this contract.

---END OF SCOPE OF WORK ---

----- NEXT -----

Security Posture Questionnaire and IT Security Standards and Guidelines

CQ18227 Motor Vehicle Record Services (Must be submitted together with the Bid)

Information Security Posture Questionnaire (Third Party Information Security Survey)

	Information Security Governance - Policies and procedures should provide reasonable assurance that an appropriate segregation of duties exists among job functions. Include completed questionnaire in the technical proposal (Volume II).	Yes	No	N/A	Describe
1	An information security policy has been implemented.				
2	The information security policy is based on a generally accepted framework (e.g., ISO 27001, NIST--800.53, PCI-DSS).				
3	Your company's security policies and standards were last reviewed within the past year.				
4	The scope of your company's security policies and standards cover the type of services WMATA is seeking (e.g., App Dev, Data Center Services, Business Process Outsourcing, etc.).				
5	A Management forum has been established to oversee and champion information security.				
6	Responsibilities for achievement of information security requirements are clearly defined.				
7	There is a separation of production and test processing environments and production and test program libraries.				
8	An independent review of information security practices has been conducted to ensure feasibility, effectiveness and compliance with written policies annually and one has been completed within the past year.				
9	There are no outstanding findings from the last independent audit/review.				
10	An information classification policy has been implemented.				
11	Information handling standards have been implemented that support the information classification policy.				
12	A process has been implemented for labeling information that requires security protection.				
13	Security responsibilities are Included in employee job descriptions.				
14	Employees are trained in information security policies, standards and procedures, security requirements, business controls and correct use of IT facilities.				
15	Minimum security baselines (configuration details) are documented and implemented for each type of information processing device that will process WMATA's information.				
16	These baselines are reviewed at least annually and updated as needed.				

	Physical Security: Identify and document the physical access controls for:				
17	There are obvious physical security measures outside the data processing facility.				
18	CCTV covers the facility.				

	Information Security Governance - Policies and procedures should provide reasonable assurance that an appropriate segregation of duties exists among job functions. Include completed questionnaire in the technical proposal (Volume II).	Yes	No	N/A	Describe
19	If CCTV covers the facility, do you have at least 90 days of video retention?				
20	A guard/administrative person controls access to the physical facility.				
21	Visitors are required to sign in to the facility.				
22	Visitors are provided with visible identification identifying them as visitors.				
23	Physical security protection exists, based on defined parameters through strategically located barriers throughout the organization.				
24	Entry controls are employed over secure areas to ensure only authorized personnel can gain access.				
25	Access to the facility is controlled by the use of an access control system.				
26	The data processing facility's access and denial of access is electronically logged and periodically reviewed by a security administrator.				
27	Physical access to the computer facility and office spaces is revoke upon termination or when it is no longer required.				
28	Your company designs information processing facilities using physical security controls to address human, environmental and natural threats.				
29	The organization examines and addresses threats posed by neighboring facilities.				
30	The organization controls access to secure work areas.				
31	All fire doors are equipped with auditory and visual alarms.				
32	Visitor's access, package delivery points and loading docks are isolated.				
33	Equipment is located to reduce risks of environmental hazards and unauthorized access.				

34	Controls are in place to protect information and information processing equipment.				
35	Controls are in place to protect information and information processing equipment from power fluctuations.				
36	Controls are in place to protect Information and information processing equipment from telecommunication outages.				
37	Controls are in place to protect information and information processing equipment from loss of water supply or cooling.				
38	Controls are in place to protect information and information processing equipment from HVAC failures.				
39	Power and telecommunications cabling is protected from interception or damage.				

	Information Security Governance - Policies and procedures should provide reasonable assurance that an appropriate segregation of duties exists among job functions. Include completed questionnaire in the technical proposal (Volume II).	Yes	No	N/A	Describe
	Logical Access Security: Policies for information dissemination and entitlement should control access to information services and data on the basis of business need.				
40	A policy based on business need for access has been implemented and communicated to all employees.				
41	Procedures are in place to register and revoke individuals from resource access control lists.				
42	Controls are in place to provide access for authorized users based on the concepts of business need and least privilege.				
43	Formal procedures have been implemented and communicated to all users on the proper handling and control of all passwords				
44	Procedures are in place to ensure management's timely review and reconciliation of access logs.				
45	Controls are in place to require users to follow effective practices in creating passwords.				
46	Controls are in place to protect workstations when they are unattended for a specified period.				
47	Your company has implemented a policy that requires that all workstation screens to blank out after a specified period.				
48	Appropriate authentication safeguards are in place to ensure remote user access is adequately controlled.				
49	Physical and logical accesses to diagnostic and configuration ports are securely controlled.				
50	Controls are in place to segregate groups of information services, users and/or information systems.				

51	Processes are in place to ensure that sensitive systems and applications are isolated.				
52	Routing controls have been implemented to ensure that computer connections and information flows do not breach the organization's access control policy.				
53	The procedure for logging into a computer system has been designed to minimize the opportunity for unauthorized access.				
54	Standards have been implemented to ensure that all users have a unique identifier (User ID) for their personal and sole use.				
55	Automated processes are in place to ensure that password management is effective, interactive and provides quality passwords.				
56	Policies and systems are in place to force password expiration. Specify what frequency.				

	Information Security Governance - Policies and procedures should provide reasonable assurance that an appropriate segregation of duties exists among job functions. Include completed questionnaire in the technical proposal (Volume II).	Yes	No	N/A	Describe
57	Controls are in place to restrict and tightly control the use of utility programs that are capable of overriding system and application security controls.				
58	Interactive sessions are suspended after a defined period of inactivity.				
59	Controls are in place to restrict connection times for high-risk systems.				
60	A formal policy and supporting standards and procedures have been implemented to authorize telecommuting and teleworking activities				
61	Outsourced services or other suppliers are not used for logical security. If you do, describe the controls in place to ensure the supplier meets the security requirements of your company.				
	Application Development Security: For the process, service or application program to be run by the vendor or third party, identify and document the application development process				
62	Security requirements are included in the requirements-gathering portion of a procurement for new and enhanced information systems.				
63	Controls are in place to ensure data input to applications are validated to ensure that they are correct and appropriate.				
64	Validation checks are incorporated into applications to detect corruption of information through processing errors or by deliberate acts.				

65	Controls have been identified and implemented to ensure authenticity and message integrity in applications.				
66	Controls are in place to ensure that the data output from an application is correct and appropriate.				
67	A policy on the proper use of cryptographic controls has been implemented.				
68	Controls are in place to manage cryptographic keys.				
69	Procedures are in place to control the installation of software into production systems.				
70	Controls are in place to ensure that test data is carefully selected, protected and purged.				
71	Processes are in place to strictly control access to program source code.				
72	Changes to the production environment of applications are reviewed and tested to ensure that there are no adverse impacts on their operation or security.				

	Information Security Governance - Policies and procedures should provide reasonable assurance that an appropriate segregation of duties exists among job functions. Include completed questionnaire in the technical proposal (Volume II).	Yes	No	N/A	Describe
73	A security risk assessment been conducted to determine the company's risk to covert channel interception of information.				
74	Systems and operations support personnel monitor vulnerability notification services for notification of current vulnerabilities.				
75	Solutions (tools, processes) are in place and consistently used to identify and remediate application level security vulnerabilities.				
76	Software providing services sought by WMATA is free from vulnerabilities.				
77	Outsourced services or other suppliers are not used for application development. If you do, describe the controls in place to ensure the supplier meets the security requirements of your company.				
	Remote Access: Policies and procedures should provide reasonable assurance that external access to the internal network is appropriately restricted, monitored and reviewed.				
78	Remote access to the internal network is limited to authorized users.				
79	Remote users' activities are logged.				
80	Remote access is restricted to those with a legitimate business need.				

81	Have any third party service providers been granted remote access privileges?				
82	All devices that permit remote access are sufficiently controlled and secured.				
83	All wireless access points are require encrypted for access.				
84	An extra layer of authentication (i.e., multi-factor) is required for remote access.				
	Operations: Policies and procedures should provide reasonable assurance that system capacity, availability, and operation are appropriately provided and monitored.				
85	Documented operating procedures are in place to address:				
	Media Handling;				
	System startup / shutdown;				
	System backup;				
	Equipment maintenance.				
86	A change management process has been implemented to track and approve all changes to the production environment.				
87	Specific procedures have been Implemented to address the change management process in emergency situations.				
88	Duties and areas of responsibilities are segregated to reduce the opportunities for unauthorized modification or misuse of assets.				

	Information Security Governance - Policies and procedures should provide reasonable assurance that an appropriate segregation of duties exists among job functions. Include completed questionnaire in the technical proposal (Volume II).	Yes	No	N/A	Describe
89	Controls are in place to ensure production operations, development and test environments are separated to reduce the risk of unauthorized access or changes to the production environment.				
90	Controls are in place to ensure that changes to service levels provided by third parties are approved prior to implementation.				
91	Controls are in place to monitor and adjust resource requirements for adequate system performance.				
92	Controls are in place to ensure that new information systems, upgrades, versions, and fixes are migrated into production only after obtaining appropriate review.				
93	Appropriate detection, prevention and recovery controls to protect against malicious code have been implemented.				

94	Backups of information and software are performed in accordance with established policy or SLA.				
95	Backup tapes containing sensitive information are encrypted.				
96	Back-up media is tested regularly to ensure restoration is possible.				
97	Current back-ups are maintained at an off-site facility for recovery purposes.				
98	Controls are in place to adequately manage and control threats and to maintain security for systems and applications using network facilities.				
99	Procedures are in place to track and reconcile the location of all removable storage media. Please state the length of your archiving system for old tracking.				
100	The tracking system data is archived. Specify for how long.				
101	The tracking system is capable of determining the data on each type of media.				
102	Procedures are in place to ensure the verifiable secured disposal of storage media.				
103	Procedures are in place to ensure the proper handling and storage of information storage media.				
104	A bonded third party off-site storage company is used.				
105	Third party off-site storage companies, if used, pick up storage media from your site and take the media directly to their off-site location without making other stops.				
106	Third party off-site storage companies, provide an attendant or second driver on every pickup.				

	Information Security Governance - Policies and procedures should provide reasonable assurance that an appropriate segregation of duties exists among job functions. Include completed questionnaire in the technical proposal (Volume II).	Yes	No	N/A	Describe
107	If third party off-site storage companies are used, the vehicles are equipped with CCTV or equivalent.				
108	Controls are in place to prevent unauthorized access to all system documentation.				
109	Procedures are in place to protect media from unauthorized access, misuse or corruption during transit.				
110	Controls are in place to ensure information is protected when used in electronic messaging.				

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111	Policies and standards have been implemented to protect information affected by the interconnection of business information systems.				
112	Firewalls are implemented to protect internal systems from un-trusted networks. Describe the Architecture:				
113	Network and host-based intrusion detection or intrusion prevention controls are implemented.				
114	Periodic network penetration testing is performed by an independent entity.				
115	Firewall and router rule sets are reviewed periodically.				
116	Controls are in place to protect information when passing over public or untrusted networks.				
117	Controls have been implemented to protect information involved in transmission of on-line transactions.				
118	Audit logs are produced to record activities, exceptions and other security-relevant events.				
119	Audit logs are reviewed and reconciled on a timely basis.				
120	Controls are in place to prevent unauthorized access to or modification of log data.				
121	Processes are in place to log all system administrators and system operator's activities.				
122	These logs are reviewed and reconciled by an independent third party (or with adequate segregation of duties for such review) on a regular and timely basis.				
123	Processes are in place to record and reconcile system's errors and faults.				
124	Procedures are in place to ensure that all processing system's internal clocks are synchronized and accurate.				
125	Outsourced services or other suppliers are not used for operations support. If you do describe the controls that are in place to ensure the supplier meets the security requirements of your company.				

	Information Security Governance - Policies and procedures should provide reasonable assurance that an appropriate segregation of duties exists among job functions. Include completed questionnaire in the technical proposal (Volume II).	Yes	No	N/A	Describe
126	Controls are in place to restrict the user of "administrator" and "root" accounts.				

	Disaster Recovery and Business Continuity Planning: Controls to identify and reduce risk, limit the consequences of damaging incidents, and ensure timely resumption of mission critical functions must be implemented				
127	A formal process is in place for developing and maintaining business continuity throughout the organization.				
128	A risk assessment has been conducted and undated to determine the company's risk interruptions to business processes, including those caused by natural events such as hurricanes, floods, tornadoes .				
129	Plans have been developed to maintain or restore IT and information security business operations at required levels and time frames following an interruption in services. Recovery Time Objectives (RTO) and Recovery Point Objectives (RPO).				
130	Information security is part of the organization's DRP/BCP framework.				
131	All business continuity plans are reviewed by executive management.				
132	The business continuity plans are tested at least annually and the tests are formally documented and approved by executive management.				
133	Information security is actively included in the testing and review of the business continuity plans.				
134	All dependencies and specific functions/services provided by other areas or external service providers, on which each business function/service depends?				
135	The RTO and RPO for each dependency has been reviewed to ensure it is compatible with the impact and time frames of the business function/service.				
136	The key individuals required to activate and participant in the execution have been identified.				
137	The steps for resuming business have been documented.				
138	The minimum recovery resources, sufficient to support a 30-day outage.				
	Information Security Governance - Policies and procedures should provide reasonable assurance that an appropriate segregation of duties exists among job functions. Include completed questionnaire in the technical proposal (Volume II).	Yes	No	N/A	Describe
	Security Incident Handling: Controls to ensure that the response to security incidents are timely, consistently performed and are adequately documented with captured evidence that is carefully handled and appropriately maintained.				

139	Your company has a documented information security incident response procedure.				
140	The roles and responsibilities for security incident response are clear.				
141	Incident response procedures are tested periodically.				
142	No information security Incidents were experienced in the last year.				
143	Provide a summary of the types of incidents, attack vectors, number of records involved (if applicable).				
144	How many or what percentage were from internal vs. external sources.				
145	Have you ever had a security breach that resulted in a) data being stolen, b) data being damaged, altered or deleted? Or c) that required notification under U.S privacy laws?				
146	If you have had a security breach that resulted in data being stolen, data being damaged, altered or deleted, or that required notification under U.S privacy laws, were steps taken to identify the cause of the breach and were steps taken to prevent a reoccurrence?				

Name & Signature of Authorized Personnel

Date

Company Name

APPENDIX C – SMALL BUSINESS LOCAL PREFERENCE PROGRAM
(SBLPP)

ATTACHMENT A

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

November 2016

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

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 and local 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 up to the simplified acquisition threshold.

3. 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.

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) **Bidder.** A party submitting a bid in response to this solicitation/invitation for bid.

- (c) **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. Certification must be obtained by the deadline of bid/proposal submittal.
- (d) **COMPACT Jurisdictions.** Jurisdictions of the District of Columbia, the State of Maryland, and the Commonwealth of Virginia.
- (e) **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 this Contract, including all incidentals that are necessary to complete the work in accordance with this Contract.
- (f) **Good Faith Efforts.** Efforts to encourage SBLPP participation 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 program requirement.
- (g) **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.
- (h) **Local Business.** A firm that self-certifies it is located in the District of Columbia, State of Maryland, or Commonwealth of Virginia.
- (i) **Offeror.** A party submitting a proposal in response to this solicitation.
- (j) **Proposal.** A submission by an offeror to the solicitation that, if accepted by the Authority, would bind the offeror to perform the resultant Contract.
- (k) **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).
- (l) **Small Local Business.** 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.
- (m) **WMATA.** Washington Metropolitan Area Transit Authority, also known as the "Authority" or "Metro", the transit system (rail and bus) serving the District of Columbia, including parts of Virginia and Maryland.

5. **BIDDER/PROPOSAL REQUIREMENTS (WITH THE BID/PROPOSAL):**

The bidder/proposer shall submit its SBLPP certification documentation 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.

SUMMARY OF SUBMITTALS

Bidder/Proposal Requirements (Apparent Successful Bidder/Offeror)

All SBLPPs must submit a copy of their current SBLPP certification letter issued by WMATA's DBE Office at the same time of your bid/proposal submittal.

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 solicitation, during which period offerors may not withdraw their offers.

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

Approved equal: An item approved by WMATA as equivalent to a brand name item originally specified.

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.

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

Brand name: Identification of an item that is produced or controlled by one or more entities, including trademarks, manufacturer names, or model names or numbers that are associated with a manufacturer.

Breach: An unexcused and unjustifiable failure or refusal of a party to satisfy one (1) or terms of the Contract which, if material, shall constitute a basis for potential default.

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.

Clarifications: Exchanges between the Authority and one (1) or more bidders of a limited nature, whereby bidders may be given the opportunity to clarify certain aspects of their bids or to resolve minor irregularities, informalities or clerical errors.

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 Contract.

Contract or Agreement: The written agreement executed between the Authority and the Contractor awarded pursuant to this solicitation.

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

Designer: The individual, partnership, firm, corporation or other business entity that is either the Contractor, or employed or retained by the Contractor, to manage and perform the design services for the Contract.

Disadvantaged Business Enterprise (DBE): A for-profit small business concern that has been certified by the Authority to be at least fifty-one percent (51%) owned by one (1) or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which fifty one percent (51%) of the stock is owned by one (1) or more individuals, and whose management and daily business operations are controlled by one (1) or more of the socially and economically disadvantaged individuals who own it.

Descriptive literature: Information provided by an offeror, 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.

Directed, ordered, designated, prescribed or words of like importance: 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.

Explanation: Additional information or clarification provided by an Authority representative to one (1) or more prospective bidders in response to an inquiry relating to the solicitation, that will be binding upon the Authority, only to the extent specified in the Contract.

Equivalent: Of equal or better quality and/or performance to that specified in the Contract as determined by the Authority.

Final Payment: The last payment to the Contractor for work performed under the Contract.

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, that gives rise to a delay in the progress or completion 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.

FTA: Federal Transit Administration, an agency within the United States Department of Transportation that provides financial and technical assistance to local public transit agencies.

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 part of this Contract unless specifically listed as such in the Scope of Work.

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), and other regulations of any government or quasi-government entity that are applicable to this Contract.

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 offerors or adversely impact the Authority's interests.

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.

Offeror: A party submitting a bid in response to this solicitation.

Option: A unilateral right in the Contract by which, for a specified time, the Authority may elect to purchase, at a predetermined 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, a person, corporation or other business entity is unable or potentially unable to render impartial assistance or advice to the Authority, or its objectivity in performing the Contract is or might be otherwise impaired, or it has an unfair competitive advantage.

Period of Performance: The time allotted in the Contract for completion of the work. The period of performance begins upon the effective date of Contract execution and ends on the last date for complete performance of the final option. 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.

Safety Sensitive: FTA regulations at 49 C.F.R. § 655.4 define “safety sensitive functions” as any of the following duties when performed by WMATA as a grant recipient, or any of its contractors: (a) Operating a revenue service vehicle, including when it is not in revenue service; (b) Operating a nonrevenue service vehicle, when required to be operated by the holder of a commercial driver’s license (CDL); (c) Controlling dispatch or movement of a revenue service vehicle; (d) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service; and (e) Carrying a firearm for security purposes. WMATA’s definition of safety sensitive functions extends beyond FTA’s requirements and includes (f) Employees and contractors who maintain escalators and elevators (including repairs, overhauls and rebuilding) and (g) Station managers.

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.

Small Business Enterprise Set-Aside: Competitive procurement(s), less than \$500,000, exclusively for SBE certified bidders/proposers.

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).

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

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.

Site: The areas that are occupied by or used by the Contractor and subcontractors during performance of the Contract.

Small Business Enterprise (SBE): A for profit small business concern that has been certified by the Authority to be at least fifty one percent (51%) owned by one (1) or more individuals who are economically disadvantaged.

Small Business & Local Preference Program: Board mandated small business contracting program for WMATA funded contracts with firm(s) located in the District of Columbia, Maryland or Virginia.

Subcontract: An agreement between the Contractor and another party, or between other subcontractors at any tier, to perform a portion 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 subcontractors.

Submittal: Written or graphic document or samples prepared for the work by the Contractor or a subcontractor and submitted to the Authority, 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 (including receipt of test and inspection reports) so that it , can be utilized for the purpose for which it is intended, and only incidental work remains for physical completion in accordance with the Contract.

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

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

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

WMATA Safety Manual: A compilation of the appropriate safety and reporting requirements for the project as specified in the Contract.

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, and material, of any type and nature to be furnished and/or performed pursuant to this Contract to accomplish the Contract's stated objectives in a timely and fully satisfactory manner.



WMATA Information Technology

WMATA IT Security Standards and Guidelines

Office of Chief Information Security Officer

**Standards Description Document
IT-MITS-STND-01**

Version 1.0

Revision History

Version	Date	Subject Matter Expert	Author/Editor	Description
0.1	05/19/2017	Tijan Drammeh	Tijan Drammeh	Initial draft
0.2	06/14/2017	Tijan Drammeh	Tijan Drammeh	Comments from MITS management and Al Short, Deputy CIO incorporated.
1.0	06/20/2017	Tijan Drammeh	Tijan Drammeh	Final copy – All additional notes finalized.

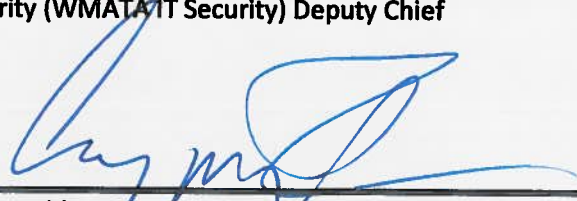
Standard and Guideline Document Authorization

The undersigned have reviewed this process definition document and hereby authorize its implementation as herein described.



7/14/2017

Tijan Drammeh, WMATA Information Technology Security (WMATA IT Security) Deputy Chief POC Date:



07/14/17

Corey Bobb, WMATA Information Technology Security (WMATA IT Security) Chief Owner Date:



14 July 2017

Al Short, WMATA Information Technology Deputy Chief Information Officer Approver Date:

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1 Introduction

The Washington Metropolitan Area Transit Authority (WMATA) policies and procedures provide a framework that establishes data security, availability and integrity of the WMATA data and its operations. It is very important for all business units and IT to follow the WMATA policies and procedures as it ensures business operations on IT systems and also, guides on implementation of new projects and upgrades of existing solution.

1.1 Scope

The purpose of this document is to provide guidance to incoming or existing vendors on the procurement, upgrade and decommissioning of information technology systems, including hardware and software. Also, this document guides and lays out the framework existing and desired not only from the business owners but also, from vendors and contracting staff. All the proposed solutions and enhancements must follow the framework set by WMATA Information Technology office and any exceptions to this document must be presented to WMATA IT Security before procurement or designing solution.

This document can be used as guidance document along with request for proposal from business units.

2 Information Security Standards

The Washington Metropolitan Area Transit Authority (WMATA) Information technology standards are communicated via set of policies and procedures. These standards and guidelines are very important for WMATA and should be followed while doing any project or system upgrades which involve WMATA information systems.

2.1 Risk Management

Ensure that IT risk management is an integral part of the Authority's defined risk management process. WMATA IT Security should be involved in performing risk assessment on all the new proposed projects or existing information systems. WMATA IT Security department performs risk assessments on existing services and systems supporting the business goals as directed by the CIO. IT Risk management activities should include:

- i. Integrate risk identification, analysis, and mitigation activities into product development planning.
- ii. Define risk management processes at the beginning of project as initial step.
- iii. Raising awareness in the WMATA for the need of risk management.
- iv. Invoking the established Risk Management process to systematically assess risks.
- v. Minimize loss, disruption, damage and injury and reduce the cost of risk.
- vi. Inform policy and decision making by identifying, assessing and remediating impact to acceptable levels.

2.2 Information Security

2.2.1 User Access Management

- 2.2.1.1 Access to systems and network will require a valid user ID and password. All default and vendor-supplied user IDs and passwords will be disabled and removed. Minimum password length and security standards will be enforced by WMATA IT Security.

2.2.1.2 Two factor or additional authentication based upon risk assessment or sensitivity of system and/or data. Systems will be evaluated by OCISO and additional authentication guidance and requirement will be provided.

2.2.1.3 New devices will be identified and entered in system for records before going in production. Also, new devices will be hardened according to security posture defined by WMATA IT Security.

2.2.2 Access Control

2.2.2.1 Physical access to network servers, communication lines and other network hardware components will be controlled and restricted to those with a demonstrated need for access.

2.2.2.2 Access rights to information resources are granted to network administrators with elevated levels of access. These rights are granted for the purpose of providing support, troubleshooting and performing maintenance on WMATA equipment for customers. Data is not to be accessed, printed, modified or copied (except for routine backups) for any reason, unless prior written consent is given by the data owner.

2.2.2.3 Centrally controlled network servers should be used instead of sharing workstation resources to prevent access to sensitive data.

2.2.2.4 Remote access will be provided to individuals who demonstrate a clear business need for such access through an approved, standard methodology.

2.2.2.5 The use of remote control software is restricted to specific situations which must be justified and approved by the WMATA Chief Information Security Officer (CISO).

2.2.3 Payment Card Industry Data Security Standard (PCI DSS)

All the systems integrating with WMATA Credit card processing system or proposed to process credit/debit card payments must comply with PCI DSS latest standard posted on PCI council website.

2.2.4 IT Security Training

2.2.4.1 All users, managers and operators of WMATA information systems will receive and complete recurring IT Security Awareness training annually.

2.2.4.2 All users involved in development of software or custom development on an application should go through secure code development techniques training.

2.2.5 Vulnerability Management

All WMATA systems must follow vulnerability management process by OCISO. Vulnerability management overall supports the IT risk management program and security posture of IT environment. Systems supporting WMATA services and business process must have security implementation plan (SIP). Review cycle of SIP should be defined by OCISO. Review of SIP will be needed in case system goes through major upgrade. Compensatory controls should be placed to bring systems in compliance and a sign off will be required by the CIO and CISO for systems that do not meet WMATA defined standards and guidelines.

2.2.5.1 System Patching and Hardening

- i. All system devices belonging to, or managed by WMATA will be patched with vendor-provided operating system and application security patches.
- ii. All systems will be hardened utilizing industry best practices benchmarks. The Center for Internet Security (CIS) (<http://www.cisecurity.org>) will be the primary library of benchmarks for system hardening within WMATA. If a benchmark is not available for a particular system environment such as a Platform IT system, WMATA IT Security will collaborate with the system owner to select the most appropriate guidelines for their environment.
- iii. All systems will have the latest service packs and security patches installed per the approved maintenance cycle.
- iv. All systems will have the latest anti-virus software installed.
- v. New devices will be patched to the current patch level, as well as hardened to appropriate benchmarks prior to the device being connected to WMATA's network.
- vi. Patches will be applied:
 - a. By automated patch management software on workstations connected to the WMATA network; and
 - b. By automation and manually (where applicable) to all systems in accordance with an approved system maintenance plan.

2.2.5.2 Network Removal

Older devices with outdated operating systems or non-supported vendor operating systems that do not have the ability to use current operating system software will be removed from WMATA's network, unless the system owner requests and is granted an exception by WMATA CISO. Devices with non-supported vendor applications should be informed and reviewed by WMATA IT Security.

2.2.5.3 Monitoring

For security and network maintenance purposes, authorized individuals within WMATA may monitor equipment, systems and network traffic at any time. WMATA IT Security reserves the right to audit networks and systems to ensure compliance.

2.2.5.4 Sustainability and Supportability

Sustainability and supportability is a combination of preventative, corrective and reliability centered maintenance. Systems owners need to ensure that during program/project planning systems should have a sustainment and support plan in place that accounts for the total cost of ownership for vulnerability management in regards to:

- i. Labor and costs associated with vulnerability management are clear;
- ii. Maintenance windows are defined and repeatable; and
- iii. Vendor lifecycles are understood and sunset milestones are identified in order to plan for future technical refresh.

2.2.5.5 Also, system owners should ensure that vendor support plan includes timely delivery of system security and patch updates. Endpoint Monitoring

- i. Software to detect and clean viruses and malicious code will be installed on all WMATA stand-alone and networked information systems.

- ii. WMATA will use an IT Security approved product for protection from malicious code under the following minimum requirements:
 - a. The malicious code protection product will be configured for, and operated in real time to protect all servers and client computers;
 - b. The library definitions will be updated at least once per day; and
 - c. Scans will be done at a minimum of once per month on all user-controlled workstations and servers.
 - d. All media (disks, thumb drives, CDs, etc.) from an outside source or exchanged with another employee will be automatically scanned by WMATA systems for viruses and other malicious code when inserted before use.

2.2.6 Virus Protection

- 2.2.6.1 WMATA will subscribe to a virus notification service. Virus updates will be centralized and distributed at the discretion of WMATA IT Security, who will also alert users of risks, threats and required actions.
- 2.2.6.2 Virus protection must be installed at all entry points to WMATA networks, and scanners will be updated at a reasonable schedule. These scanners will scan incoming mail and files received from across a network. Additional virus checking will occur at various access points.
- 2.2.6.3 All software is to be installed in an isolated environment and tested for viruses prior to being placed in a networked environment. When certified to be virus free, it may be moved into the normal operating environment using the appropriate procedures.
- 2.2.6.4 Security team will maintain set of approved software.

2.2.7 System Audit Trail and Logging

- 2.2.7.1 All mission-critical servers (e.g., file, web, email, etc.) must be configured to securely and automatically log all significant security relevant events and sent to WMATA IT Security central logging system
- 2.2.7.2 Successful and unsuccessful login attempts by users will be captured and stored.
- 2.2.7.3 All logs must be secured so that they cannot be modified, and so that only authorized persons can read them.
- 2.2.7.4 Records reflecting security-relevant events must be periodically reviewed in a timely manner by computer operations staff, information security staff or systems administration staff. Alerts will be set on the central logging and file integrity system for various WMATA audits.
- 2.2.7.5 Records will be retained for the length of time as required for their applicable regulatory and statutory compliance. Records containing possible security and/or legal incident information will be retained longer at the discretion of WMATA IT Security or until such time as it is determined that WMATA will not pursue legal action or otherwise use the information.

2.2.8 Network and System Privacy and Monitoring

- 2.2.8.1 Unless contractual agreements dictate otherwise, all forms of communications sent over the WMATA WAN are the property of WMATA.

- 2.2.8.2 Information technology department reserves the right to examine all data stored in or transmitted by all computer systems owned and operated by WMATA.
- 2.2.8.3 Employees, contractors and vendors must have no expectation of privacy associated with the information they store in or send through WMATA information systems.
- 2.2.8.4 A successful system logon is an agreement to abide by all policies for system use.
- 2.2.8.5 No responsibility is assumed for the disclosure of information sent over WMATA WAN networks, and no assurances are made about the privacy of information handled by WMATA internal networks.
- 2.2.8.6 Nothing in this document will be construed to imply that WMATA policy does not support the controls dictated by agreements with third parties, such as organizations that have entrusted WMATA with confidential information.

2.3 Application Systems Implementation and Maintenance

All the development and configuration management should follow Software Development Life Cycle (SDLC) methodology. Incorporate information security throughout the software-development life cycle. Applications or systems which are subject to government regulations or industry standards must incorporate the security controls as listed in the regulations or industry security standards. Written software-development processes should exist and these processes must be based on industry standards, regulations and/or best practices.

Application systems should use WMATA central repository/tool for management of configuration and software development code libraries. Following areas should be addressed for application systems besides guidelines listed in this document:

2.3.1 Change management

All the changes to the application system should follow WMATA IT Change management process.

2.3.2 Segregation of environments and personnel

Development, test and production environments should be created for SDLC. Clear segregation of duties should be established between personnel for various phases of SDLC and enforce the separation with access controls. Production data should not be used for testing or development. Separate code libraries should be used for each environment via WMATA provided tools or industry standards tools. Any tool other than WMATA approved tool must be approved by OCISO.

2.3.3 Secure coding and review

Secure coding techniques should be used in the development of new systems or enhancement of the systems. OWASP top 10 and WMATA OCISO approved development processes should be used.

2.3.4 Patch management

Ensure that all system components and software are protected from known vulnerabilities by installing applicable vendor-supplied security patches. Security patches should be installed within reasonable timeframe of release. Critical security patches should be installed within one month of release.

2.3.5 Application vulnerability management

Application vulnerability scans must be performed and all the vulnerabilities listed as high and medium must be remediated before implementing to the production environment.

2.4 Database Implementation and Support

All the databases should be located in an internal network zone as designated by WMATA IT Security. Use WMATA IT security configuration standards for all database components. WMATA IT Security follows industry-accepted system hardening standards. Sources of industry-accepted system hardening standards may include, but are not limited to: Center for Internet Security (CIS); International Organization for Standardization (ISO); SysAdmin Audit Network Security (SANS) Institute; National Institute of Standards Technology (NIST). All the guidelines listed in this document should be followed for data protection, availability and integrity.

2.4.1 Data Sensitivity

- 2.4.1.1 Sensitivity levels are assigned to data in WMATA's databases, applications and systems and stored in electronic media are based on the data's value to WMATA, its employees and customers. Threats to the data include anything that could affect the confidentiality, integrity and availability of the information. Sensitivity levels of confidential, internal use only and Public are defined, and data owners must assign all data under their control to one of these levels based on the data's value and its ability to provide services to its customers.
- 2.4.1.2 Collection and Storage of Personally Identifiable Information should only occur when it is essential to the functions and operations of WMATA. Storage of personally identifiable information should remain only in the information system's data base and not in ancillary storage areas (e.g., spreadsheets or other types of files).
- 2.4.1.3 Access to Personally Identifiable Information will be authorized by persons known as "data owners" or "authorizing agents" for a WMATA application system in support of necessary functions or operations.
 - i. Access to personally identifiable information is granted based on a "need-to-know" and/or "least-privilege" principle. Therefore, WMATA personnel shall only access information that they are specifically required to use in the performance of their duties.
 - ii. Access to sensitive information (both personally identifiable and confidential business information) will be revoked immediately on an employee's last day of employment or change in the employee role/responsibilities or upon the data owner/authorizing agent/Assistant General Manager's notification to WMATA IT Security of an employer-initiated termination of previously-granted access.
- 2.4.1.4 Transmission of Sensitive Information requires the sender to protect that information and inform the recipient(s) (including those involved in the delivery process) that the transmission contains sensitive information and must be protected.
 - i. Security of Paper Transmissions requires the sender to seal the envelope, mark the envelope as "CONFIDENTIAL" and take all necessary steps, as appropriate, to ensure delivery only to the correct party/parties to minimize the chance of unnecessary exposure.
 - ii. Security of Digital Transmissions requires the information be encrypted when being transmitted over public networks or carriers in digital form. WMATA IT

Security encryption standards should be used while transmitting sensitive information.

- iii. Security of Fax Transmissions requires the sender to ensure that the information is promptly retrieved and properly protected at both the sending and receiving locations, with appropriate telephone/email confirmation as appropriate.
- iv. Emailing of Sensitive Information is strongly discouraged..

2.4.1.5 Use and Storage of Sensitive Information

- i. The Assistant General Manager (AGM) of the department that is the owner or custodian of the data that may contain sensitive information maintains the responsibility for requesting that this data be scanned by WMATA IT Security for detection of sensitive information and compliance prior to internal or external posting.
- ii. Personally identifiable information and credit card information should be stored only where it is specifically required and in as few systems as possible. This data must be encrypted using WMATA IT Security-approved methods while in transit and at rest.
- iii. Systems on which sensitive information is stored must minimally comply with all basic computer security standards (e.g., patch management, anti-virus protection, password controls, etc.) Unencrypted sensitive information should be stored only on systems that are housed in secure and controlled environments. Where desktop systems access sensitive information, they must not be left logged in on an unattended basis or be available for casual perusal by unauthorized individuals.
- iv. Sensitive information stored on any system or media that is subject to loss or theft (including laptops, Universal Serial Bus (USB) drives, diskettes, CD/DVDs, personal computers and departmental servers) must be encrypted whenever not in use. Systems susceptible to theft should be physically secured.
- v. Whenever possible, sensitive data should be de-coupled from all personally identifiable information.
- vi. Paper documents and files containing sensitive information must be secured at all times. Such documents should not be left in open view on desks and when not in use must be stored in secured areas or locked files with access limited to authorized users.

2.4.1.6 Destruction of Sensitive Information

- i. Electronic and magnetic media (e.g., hard drives, diskettes, magnetic tapes and optical tapes) should be erased using secure deletion tools before transfer or disposal.
- ii. Media that are not or cannot be securely erased (e.g., USB drives, CDs, and DVDs) should be physically destroyed before disposal.
- iii. Paper documents and printouts containing sensitive information must be shredded before disposal.

2.4.1.7 Notice and Reporting of Security Breaches

In the event of a potential leak of sensitive information, WMATA IT Security should be notified immediately by the department/office that suspects a leak has occurred. In addition, the Office of the Inspector General and/other appropriate offices - including the Office of the Deputy General Manager, General Counsel, Department of System

Safety and Environmental Management, as well as the department where data originated from should also be notified.

2.5 Network Support and Management

2.5.1 WMATA Time Synchronization

Departments requiring the use of the centralized timing service will:

- 2.5.1.1 Request IT Network Communication Services (IT/NCS) approval on all end system timing device purchases to ensure compliance and conformity to the Time Synchronization System.
- 2.5.1.2 Work with IT/NCS for proper installation, configuration and activation of all end system timing devices.

2.5.2 Network Device Management

- 2.5.2.1 All devices (including routers, switches, appliances, servers and personal computers) must receive explicit connectivity approval from WMATA IT Security before being connected to the WMATA WAN.
- 2.5.2.2 WMATA IT Security must have root or admin-equivalent access to all devices on the network.
- 2.5.2.3 All network devices attached or to be attached to the WMATA WAN will be managed exclusively by NCS and IT Security. MOU must be in place before connecting the network devices to WMATA WAN

2.5.3 Addressing Requirements

- 2.5.3.1 All connected devices are limited to the use of WMATA IT Security-approved transmission protocols only.
- 2.5.3.2 All computers will be assigned IP addresses dynamically through a Dynamic Host Configuration Protocol (DHCP) server, and all other devices are assigned static IP addresses issued and maintained by WMATA IT Security.

2.5.4 Third Party and External Connectivity

- 2.5.4.1 All ingress connections into WMATA with non-WMATA networks must terminate at the Extranet for dedicated leased lines.
- 2.5.4.2 All external connectivity requests will be evaluated, implemented and managed by WMATA IT Security.
- 2.5.4.3 WMATA IT Security will validate all such connections on a quarterly basis.
- 2.5.4.4 Departments will notify WMATA IT Security of any established connections that are no longer needed as soon as possible.
- 2.5.4.5 All external parties must send logs to WMATA.

2.5.5 Network Patch Management

System administrators are required to promptly test, evaluate and apply (if testing is successful) all security patches and hot fixes to the operating system.

2.5.6 General Wireless Policies

2.5.6.1 Users of any WMATA wireless network are subject to the general requirements that:

- i. Only authorized WMATA users and devices are permitted to use WMATA's wireless technology resources.**
- ii. WMATA IT Security must approve all installations of wireless access points used within WMATA's facilities and enterprise-wide area network. Deployment and management of wireless access points at any WMATA facility is the responsibility of NCS.**
- iii. Wireless services, equipment and users must comply with general WMATA policies and configuration requirements.**
- iv. Users will not interfere with, or disrupt other authorized communications.**
- v. Users will not undertake the unauthorized interception of other traffic.**
- vi. Users will not create own personal hotspots on WMATA buildings and leased spaces. WMATA IT Security will intercept unauthorized signals and remove the unauthorized devices & submit to Chief of NCS.**
- vii. Users will not be connected to WMATA's internal network and any external wireless environment simultaneously on one device. In the event of interference between radio communication technology and a wireless access point, WMATA IT Security and NCS will coordinate WMATA's needs and will determine which system must be reconfigured or shut down to ensure safe and effective operations of WMATA.**
- viii. Users must be authenticated to gain access to any WMATA network.**
- ix. If a user becomes aware of a malicious act, they are to report it to WMATA IT Security and the WMATA Transit Police Department (MTPD) within one hour.**

2.5.6.2 The following requirements will be met in the deployment, configuration and administration of WLAN infrastructure connected to any internal WMATA network:

- i. Only approved wireless access points will be connected to an internal WMATA network. WMATA IT Security will implement wireless monitoring systems to identify and remove rogue access points.**
- ii. WLAN users with WMATA laptops and devices will authenticate to the WMATA WLAN via authentication certificates. Certificates must be installed on each device before the device is provisioned for use.**
- iii. Only WMATA-owned or leased equipment will be granted access to an internal WLAN. All WMATA devices that do NOT have an authentication certificate installed will only be permitted to access the WMATA guest network until a certificate is installed on the device.**
- iv. Vendors and contractors who wish to bring personal, non-WMATA issued devices to connect to the WLAN may do so, but they will ONLY be permitted access to the WMATA guest network.**
- v. All WLAN communications must utilize a secure encryption algorithm that provides an automated mechanism to change the encryption keys multiple times during the connected session and provides support for secure encryption protocols (i.e. the Counter Mode with Cipher Block Chaining Message Authentication Code Protocol encryption mechanism based on the Advanced Encryption Standard cipher).**
- vi. Physical or logical separation between WLAN and wired LAN segments must exist.**

- vii. All WMATA WLAN access and traffic will be monitored for malicious activity, and associated event log files will be stored on a centralized storage device.
- viii. Configuration and security data associated with the WLAN must not be provided to unauthenticated devices (e.g., SSID broadcasting will be disabled).
- ix. WLAN clients will only permit infrastructure mode communication.

2.5.7 Wireless Registration and Appropriate Use

- 2.5.7.1 All wireless access points must be registered with IT. Any active, unregistered wireless access point discovered within WMATA's facilities will be considered an unauthorized device and will be removed from the network.
- 2.5.7.2 All requests for wireless access must be accompanied by a documented business case justification.
- 2.5.7.3 All policies that govern the wired environment apply to the wireless network environment.
- 2.5.7.4 Access IDs and passwords for the use of WMATA wireless communications in public areas will be coordinated through IT.

2.5.8 Wireless Interference and Coverage

- 2.5.8.1 WMATA approaches the shared use of wireless radio frequencies in much the same way that it manages the shared use of the wired network (enterprise-wide area network), in that:
 - i. IT will respond to reports of specific devices that are suspected of causing interference and disrupting WMATA's network and where interference between WMATA's network and other devices cannot be resolved.
 - ii. IT reserves the right to restrict the use of all wireless devices in WMATA-owned buildings and all adjacent outdoor spaces as necessary to support acceptable levels of service availability.
 - iii. In the event that a wireless device interferes with other equipment, NCS and IT Security will resolve the interference based on priority. The order of priority for resolving unregulated frequency spectrum use conflicts will be based on:
 - a. Safety and security;
 - b. Operational communications;
 - c. Administrative communications;
 - d. Public access communications; and
 - e. Personal communications, respectively.

2.5.9 Building Wireless Network Hotspots

- 2.5.9.1 When building a wireless network, which will only provide unauthenticated and/or authenticated access to the Internet, the following must be in place:
 - i. Logical or physical separation from the WMATA LAN when using WLAN hotspots.
 - ii. Packet filtering capabilities enabled to protect clients from malicious activity when using WLAN hotspots.
 - iii. Access and traffic monitoring for malicious activity and log files stored on a centralized storage device for all WLAN hotspots.

- iv. Permission Infrastructure mode communication only, where WMATA clients are concerned for WLAN clients.
- v. Frequent authentication password changes available via an accessible means.
- vi. Physical security of all the network and security devices.

2.5.10 WLAN Network Configuration:

2.5.10.1 The following network configuration will be used when bridging two wired LANs:

- i. All wireless bridge communications must utilize the strongest supported secure encryption algorithm.
- ii. Wireless bridging devices will not have a default gateway configured.
- iii. Wireless bridging devices will be physically or logically separated from other networks.
- iv. Wireless bridging devices will only permit traffic destined to traverse the bridge and should not directly communicate with any other network.
- v. Configuration and security data associated with the WLAN will not be provided to unauthenticated devices (e.g., SSID broadcasting will be disabled).
- vi. Wireless bridging devices will not be configured for any other service than bridging (e.g., a wireless access point).

2.6 Cloud Computing

Cloud computing has grown rapidly in WMATA. Business and IT groups should carefully plan the security and privacy aspects of cloud computing solutions before engaging them. In case WMATA business or IT or vendor proposes any of service models (Software as a service, Platform as a service, Infrastructure as a service) or deployment models (Private cloud, Community cloud, Public cloud, Hybrid cloud) as solution then they should ensure that WMATA security and privacy requirements are satisfied. All the projects regardless of service models or deployment models, business owners and IT groups should involve WMATA IT Security, Enterprise Architect (EA) and Network Communications and Services (NCS). Service agreements must comply with business requirements as well as WMATA security and privacy standards All agreements must be reviewed and signed off by the WMATA CIO and CISO.

Following areas should be addressed for cloud computing environment:

2.6.1 Governance, Risk and Compliance

Control and oversight of WMATA policies, procedures and standards (laws and regulations) for application development and information technology service acquisition, as well as design, implementation, test, use and monitoring of deployed or engaged services. Ensure that service arrangements have sufficient means to allow visibility into the security and privacy controls and processes employed by the cloud provider, and their performance over time. Also, ensure that the cloud provider's electronic discovery capabilities and processes do not compromise the privacy or security of data and applications. WMATA IT Security reserves the right to review and audit the implementation of security controls by vendors in these service arrangements. WMATA IT Security can initiate the review of security controls as per their discretion or major upgrade/integration with the system or policy change or as

directed by Security Assessment Plan under the IT risk management process.

2.6.2 Architecture

Understand the underlying technologies that the cloud provider uses to provision services, including the implications that the technical controls involved have on the security and privacy of the system, over the full system lifecycle and across all system components.

2.6.3 Identity and Access management

WMATA IT Security will ensure that adequate safeguards are in place to secure authentication, authorization, and other identity and access management functions, and are suitable for the organization.

2.6.4 Data Protection

WMATA has clear, exclusive ownership rights over data. At all times, WMATA should have ability to control access to data, to secure data while at rest, in transit, and in use, and to sanitize data. WMATA IT Security will require secure data transfer and destruction procedures upon termination of relationship.

2.6.5 Software Segregation

WMATA IT Security will ensure virtualization and other logical segregation techniques that the cloud provider employs in its multi-tenant software architecture, and assess the risks involved for the organization. WMATA IT Security will require auditability for the systems to demonstrate the segregation.

2.6.6 Availability

WMATA should have the contract provisions and procedures for availability, data backup and recovery, and disaster recovery, and ensure that they meet the organization's continuity and contingency planning requirements. Ensure that during an intermediate or prolonged disruption or a serious disaster, critical operations can be immediately resumed, and that all operations can be eventually reinstated in a timely and organized manner.

2.6.7 Incident Response

WMATA should have the contract provisions and procedures for incident response and ensure that they meet the requirements of the organization.

2.7 Disaster Recovery Planning

2.7.1.1 All the IT systems should have a written Disaster Recovery Plan (DRP). The plan should be submitted to IT/DCI (Data Center and Infrastructure).

2.7.1.2 All server files will be backed up through a combination of full and incremental backups. Backups will be sent routinely to an off-site storage depending upon the system.

2.7.1.3 Recovery operations will be documented, stored (both locally and in off-site storage) and executed at periodic intervals to assure the operational environment can be restored accurately and timely.

- 2.7.1.4 Key LAN/WAN components should use some form of duplication to minimize down time from various forms of unexpected outages.
- 2.7.1.5 Redundant WAN communication paths should be available for predetermined, critical systems and be a part of the overall system documentation.
- 2.7.1.6 Equipment replacement agreements should be in place to assure necessary hardware can be replaced with minimal disruption to the operating environment.
- 2.7.1.7 Explicit permission will be required from WMATA IT Security in case additional security requirements or resources are needed for new applications or devices.
- 2.7.1.8 New system will need truly redundant system before deployment.

2.8 Information Resource Strategy and Planning

- 2.8.1.1 Standard, pre-approved equipment and software are available through the WMATA central system. These should be used in most cases. Authorization to pre-approved and standard equipment doesn't need pre-authorization.
- 2.8.1.2 IT maintains a standard, pre-approved equipment, configurations and software list in the central system.
- 2.8.1.3 Employees requiring non-standard equipment or software must complete an online WMATA approved process to request administrative information technology equipment and software. The process/documentation must include a justification for the procurement, identify the budgeted funding source and, where applicable, provide the system configuration information.
- 2.8.1.4 The employee's supervisor or office director must approve the request; upon approval, IT is notified of the request.
- 2.8.1.5 Standard and non-standard items require IT review and approval for compliance from WMATA IT Security Office. Denials may include alternative recommendations.
- 2.8.1.6 The ordering office will contact IT to establish a schedule for the appropriate configuration and installation of the equipment or software. Licensed software may not be installed on WMATA equipment in violation of the licensing agreement.
- 2.8.1.7 All software must be approved by WMATA IT Security prior to installation and installed by IT authorized personnel.
- 2.8.1.8 Software may be loaded on any computer if it meets ALL of the following:
 - i. The software is from a recognized source (either as physical media or a reputable download site).
 - ii. The software is legally licensed or otherwise authorized for use.
 - iii. The software is an original copy (as distinct from a home-made copy).
 - iv. The software is being used for a reasonable legitimate business need as defined by the end user (e.g. not to help run an eBay business or sort home photos).
 - v. The software version is currently supported by the publisher and not more than one version behind the current version.
 - vi. The software is not a BETA version.

- vii. The software is widely used and not known to have serious vulnerabilities or legal liability issues.
- viii. Software that does not meet the criteria should be researched online or undergo testing and approval by IT Security staff prior to installation to ensure safety.

2.9 Information Systems Operations

2.9.1 Change Control (Application and Operating Systems)

- 2.9.1.1 Centrally managed application will be used to record all information technology changes.
- 2.9.1.2 All software changes will require written data owner/management approval prior to implementation.
- 2.9.1.3 Access to production application objects/elements/data will be restricted and controlled.
- 2.9.1.4 Segregation of duties will be maintained while moving changes to production.
- 2.9.1.5 Promotion of application changes from a test environment to a production environment requires formal change management procedures to be executed by non-programming personnel. These procedures should include appropriate backups of software and components prior to the promotion. Execution modules and source code will be managed in this process to ensure that the source code matches the code that will be executing in the production environment.
- 2.9.1.6 Written communication will be established for the changes impacting production environment and its users.

2.9.2 Personal Computers, Smartphones, and Tablets

- 2.9.2.1 All business units must register all WMATA desktops, smartphones and tablets with IT.
- 2.9.2.2 Each PC, smartphone, and tablet must be imaged with the standard and approved WMATA operating system (OS) image.
- 2.9.2.3 No PCs may be connected to WMATA WAN, and, at the same time, be connected to another wireless connection, hotspot or any other mechanism that could be used to create a connection between WMATA WAN and an external network.
- 2.9.2.4 Installation or use of remote access hardware/software (e.g. dial-up modem) without explicit permission from WMATA IT Security is strictly prohibited.
- 2.9.2.5 Each computer will be attached to the domain.

2.9.3 Appropriate Usage

- 2.9.3.1 The primary usage of WMATA-provided electronic access is for official WMATA business, which includes, but is not limited to:
 - i. Sending and/or receiving official WMATA correspondence to locations or addresses internal or external to WMATA; and

- ii. Mass mailings of official information throughout WMATA when the message is pertinent to the vast majority of the recipients, and with the required approval of an Office Director/General Superintendent has been obtained, including but not limited to:
 - a. Staff notices;
 - b. Service schedules;
 - c. Newsletters; and
 - d. Meeting announcements.

2.9.3.2 Neither employees nor contractors have an inherent right to WMATA electronic access, and such access is at the discretion of office directors/general superintendents. Additionally, information technology equipment availability and/or limitations may preclude an employee or contractor from having electronic access. Use of WMATA electronic access for non-WMATA purposes may be revoked or limited at any time by appropriate WMATA department heads/office directors.

2.9.4 Inappropriate Usage

2.9.4.1 Employees and contractors are expected to conduct themselves professionally in the workplace and to refrain from using WMATA electronic access for activities that are inappropriate. Misuse or inappropriate personal use of WMATA electronic access includes, but is not limited to:

- i. Using WMATA systems to gain unauthorized access to other systems.
- ii. The creation, copying, transmission or re-transmission of chain letters or other unauthorized mass mailings (regardless of the subject matter).
- iii. Mass mailings of personal information throughout WMATA (e.g., personal items for sale.)
- iv. Using WMATA electronic access for activities that are illegal, inappropriate or offensive to fellow employees, contractors or the public. Such activities include, but are not limited to hate speech or material that is prohibited by nondiscrimination laws that are applicable to WMATA.
- v. The creation, downloading, viewing, storing, copying or transmission of illicit and/or illegal materials. This includes materials related to sexually explicit, sexually oriented, illegal gambling, illegal weapons, terrorist activities and any other illegal activities or activities otherwise prohibited.
- vi. Engaging in any outside fund-raising activity, endorsing any product or service or engaging in any prohibited partisan political activity.
- vii. Releasing agency information to external news groups, bulletin boards or other public forums without WMATA consent. This includes, but is not limited to any use that could create the perception that the communication was made in one's official capacity as a WMATA employee or contractor (unless appropriate WMATA approval has been obtained), or uses contrary to WMATA's mission or positions.
- viii. Any use that could generate more than minimal additional expense to WMATA. Examples of minimal additional expenses include using a computer printer to print a few pages of material, infrequently sending personal email messages or limited use of the Internet for personal reasons. Such use should only incur a minimal additional expense to WMATA in areas such as:
 - a. Communications infrastructure costs (e.g., telephone charges, telecommunications traffic, etc.);

- b. Use of consumables in limited amounts (e.g., paper, ink, toner, etc.);
 - c. General wear and tear on equipment;
 - d. Data storage on storage devices; and/or
 - e. Transmission impacts with moderate email message sizes (such as emails with small attachments).
- 2.9.4.2 The unauthorized acquisition, use, reproduction, transmission or distribution of any controlled information (including computer software and data) that includes privacy information, copyrighted, trademarked or material with other intellectual property rights (beyond fair use), proprietary data or export-controlled software or data.
- 2.9.4.3 Maintaining or supporting a personal or private business, support of for-profit activities or other outside employment or business activity. Examples of this prohibition include employees and contractors using a WMATA computer and Internet connection to run a travel business or investment service, consulting for pay, sales or administration of business transactions, and sale of goods or services.
- 2.9.4.4 General interest information is to be placed on the WMATA Employee Bulletin Board, rather than sending an email message to large groups of employees. Predetermined posting areas are: lost/found items, death notices, for sale/rent, giveaways, retirements/farewells, special events and help/assistance requested.
- 2.9.4.5 The forwarding of WMATA business emails to an end user's own personal/private accounts (such as gmail.com, hotmail.com or other Internet based email services).
- 2.9.4.6 The use of an end-users own personal/private account (such as gmail.com, hotmail.com or other Internet based email services) to conduct WMATA business.

2.9.5 Acceptable Personal Use

- 2.9.5.1 Limited personal use is also authorized, and each director/general superintendent is responsible for establishing appropriate standards. Employees or contractors are allowed to use electronic access for non-WMATA purposes when such use involves minimal additional expense to WMATA, is performed on the employee's or contractor's non-work time, does not interfere with the mission or operations of a department or office, and does not violate any other security standard, law or regulation.
- 2.9.5.2 The following examples are specifically acceptable uses of the Internet by WMATA users:
- i. Accessing Internet content for professional development, to maintain currency of training or education, or to discuss issues related to the Internet user's WMATA activities;
 - ii. Use for advisory, standards, research, analysis and professional society activities related to the user's work tasks and duties;
 - iii. Using the Internet to read news stories or other information of personal interest, check financial information, review pay deposits, etc.

2.9.6 Examples of Unauthorized Personal Use

- 2.9.6.1 The following are specifically unacceptable uses of the Internet by WMATA users.

- i. Any purpose which violates a federal or state law, code, policy, standard or procedure.
- ii. Purposes that conflict with the mission, charter or work tasks of a WMATA department.
- iii. Private business, including commercial advertising.
- iv. Viewing, accessing, transmitting, distributing, making and or/ causing anyone to receive:
 - a. Sexually explicit and obscene material (including any and all forms of pornography, adult humor, profanity, dating services/personals);
 - b. Websites selling alcohol, tobacco, drugs, firearms and other weapons;
 - c. Websites advocating or involving terrorism, hacking, gambling, fraud or any other criminal conduct or enterprises;
 - d. Harassing material, including racial, religious, national origin, sexual or sexual-orientation harassment; and/or
 - e. Information that violates federal laws on discrimination.
- v. Interference with or disruption of the network and/or associated users, services or equipment.
- vi. Promoting or advertising religious or political positions, causes or organizations.

2.9.7 Privacy Expectations

- 2.9.7.1 WMATA employees and contractors do not have a right to, nor should they have an expectation of privacy while using any WMATA electronic access at any time, including accessing the Internet or using email. To the extent that employees and contractors wish that their private activities remain private, they should avoid using WMATA electronic access, even if that activity is otherwise authorized.
- 2.9.7.2 By using WMATA electronic access, WMATA employees and contractors consent to disclosing the contents of any files or information maintained or passed through WMATA electronic access.
- 2.9.7.3 Certain WMATA offices and departments have special privacy requirements that must be assured in order to send sensitive emails or store information on network drives. IT approval is required for the usage or establishment of secured, private areas on the network to accomplish this.
- 2.9.7.4 By using WMATA electronic access, employees and contractors consent to monitoring and recording of their access to, and use of electronic equipment that is covered with or without cause or prior notification. While some offices and departments may be using security measures that ensure confidentiality of information, the general understanding is that such use is not secure, is not private and is not anonymous.
- 2.9.7.5 System managers do occasionally employ monitoring tools to detect improper use. Electronic communications may be disclosed within WMATA to employees and contractors who have a need to know in the performance of their duties. IT will receive approval from relevant department heads prior to any interception or examination of their department's data.

2.9.8 Inappropriate Web Content and Filtering

- 2.9.8.1 The use of WMATA information technology systems to access inappropriate web content is strictly prohibited and will be blocked. Any user attempting to access such content will be subject to disciplinary action, up to and including termination of employment.
- 2.9.8.2 The use of web content filtering ensures that Internet users do not intentionally or inadvertently access Internet sites and Web pages that are non-business related and could otherwise violate relevant WMATA policies or regulations. WMATA exercises its' access control rights, in the best interest of all Internet users, by disallowing, segregating or rejecting certain Internet listings. The following web content categories will be blocked:
- i. Sexually explicit and obscene material (including any and all forms of pornography, adult humor, profanity, dating services/personals);
 - ii. Websites selling alcohol, tobacco, drugs, firearms and other weapons;
 - iii. Websites advocating or involving terrorism, hacking, gambling, fraud or any other criminal conduct or enterprises;
 - iv. Harassing material, including racial, religious, national origin, sexual or sexual-orientation harassment; and/or
 - v. Information that violates federal laws on discrimination.
- 2.9.8.3 If a website is believed to be miscategorized, end users may request a website review by contacting the IT Helpdesk. WMATA IT Security will review the request and unblock websites found to be miscategorized.
- 2.9.8.4 Employees may access blocked websites with the permission of their management, if it is appropriate and necessary for business purposes. The request will require a written request by the appropriate office director, general superintendent or AGM. WMATA IT Security will review all such requests and unblock as appropriate.
- 2.9.8.5 Any Internet sites or web pages deemed illegal by federal or applicable state laws are prohibited and will be blocked.

2.9.9 Web Content Filtering System Access and Management

- 2.9.9.1 The content filtering system will be managed by specific WMATA IT Security personnel assigned and designated to engineer and update the system as appropriate.
- 2.9.9.2 All reporting and data access will be approved by the AGM, IT and the Chief, IT Security.

2.9.10 Unique User ID (UID) Ownership and Accountability

- 2.9.10.1 All users are to be provided with a unique user ID (UID) and password prior to being permitted to use any hardware and/or software connected to the WMATA network.
- 2.9.10.2 The UID will be individually owned in order to maintain accountability.
- 2.9.10.3 A UID will be used by only a single individual, and that one individual is responsible for every action initiated by that account.

- 2.9.10.4 Root and master UIDs will be used for specific tasks that cannot be accommodated with the use of an individually owned one.
- 2.9.10.5 Service accounts should only be used for application internal communication and must not be used by system and data administrators to log to servers or applications.
- 2.9.10.6 System administrators are not permitted to use root accounts for normal operational tasks. Each system administrator should be assigned a unique account as stipulated above.
- 2.9.10.7 All user accounts will be certified every 12 months. All accounts that are not certified will be suspended. Accounts that are not certified within three months of suspension will be removed from the system of record.
- 2.9.10.8 All user accounts will be suspended immediately upon notification of the user's separation from WMATA.
- 2.9.10.9 Anyone transferring from one department to another will have any specialized access for the prior department removed. The management official of the new department must initiate a request for specialized access, if appropriate.

2.9.11 UID Authentication

- 2.9.11.1 A UID and password combination serves as the primary digital identity for each authorized system user.
- 2.9.11.2 The UID and password combination will not be shared under any circumstances.
- 2.9.11.3 The use of generic or shared UID and password combinations are not authorized but may be considered on a case-by-case basis.
- 2.9.11.4 Access to a system will be locked if more than five consecutive invalid passwords are keyed.

2.9.12 Password Standards

WMATA IT Security utilizes industry best practices benchmarks. IT Security will provide the current password standards used in initial project meetings or as needed by implementation team.

2.9.13 Service Account Password Standards

WMATA IT Security utilizes industry best practices benchmarks. IT Security will provide the current password standards used in initial project meetings or as needed by implementation team. Service account password standards are lot stricter than user account passwords.

2.9.14 Password Management and Compliance Standards

- 2.9.14.1 Audit information will be captured by the system to reflect password usage and management.
- 2.9.14.2 Passwords will be treated as highly sensitive data and must be protected by the use of encryption at all times.
- 2.9.14.3 All password systems will be configured by the appropriate system owner or administrator to implement the following security controls:

- i. **Password Management** - Each password system will be configured to automatically enforce minimum password standards, such as password length, composition and required password change interval. Users will automatically receive notification seven days in advance of their password expiration.
- ii. **Accountability** - Each password system will identify each instance of authorized access, because systems that process sensitive information must guarantee user accountability.
- iii. **Personal Identification** - Each password system will assure identification of each individual user.
- iv. **Password Integrity and Confidentiality** - Each password system will protect the password database at a level equal to the protection given sensitive information throughout WMATA.
- v. **Auditing** - Each system will be configured to record information about user accesses.
- vi. **Use of Passwords to Protect Data** - All stored passwords will be encrypted using an approved encryption method.

2.9.14.4 Passwords will not be stored, unencrypted:

- i. In readable form in batch files;
- ii. In automatic logon scripts;
- iii. In software macros;
- iv. In terminal function keys;
- v. In data communications software;
- vi. In web browsers;
- vii. On hard drives unencrypted; or
- viii. In other locations where unauthorized persons might discover them.

2.9.15 Remote Access Methods

- 2.9.15.1 Secure remote access to WMATA's network is vital to maintaining the integrity and availability of the network. Only the following remote access methods are permitted: IPSec VPN; or SSL VPN.
- 2.9.15.2 The Remote User must have the capability to connect to an Internet Service Provider (ISP) i.e., a Digital Subscriber Line (DSL) service, a cable modem provider, commercial dial-up service or any Local Area Network (LAN) with Internet access.
- 2.9.15.3 Remote connectivity to the WMATA WAN is permitted by either IPSec VPN or SSL VPN only.

2.9.16 Authorized Remote Users

- 2.9.16.1 Only those remote users who have a valid business justification for remote VPN access to WMATA resources will be granted access appropriate to that user's job function. Access is limited to specific business purposes in support of WMATA's mission.
- 2.9.16.2 Remote access will be restricted to the resources specified in submitted requests.

2.9.17 Anti-Virus Software Requirements for Remote Users

- 2.9.17.1 It is the direct responsibility of the user of the remote session to ensure WMATA-approved anti-virus software is installed on the remote PC.

2.9.17.2 Anti-virus software can be obtained at no charge from WMATA IT Security for approved WMATA employees and contractors. The user remains directly responsible for maintaining both anti-virus application upgrades and virus signature updates.

2.9.17.3 WMATA retains the right to inspect end user stations for up-to-date antivirus software and virus definitions before granting access via VPN. Should it be found that the user does not have the appropriate antivirus protection, their connection will be terminated, and no further VPN access will be granted until the end user station is confirmed as anti-virus compliant.

2.9.17.4 Users not in compliance with any part of the anti-virus requirement will be denied VPN access to WMATA resources.

2.9.18 Remote Session Audit and Monitoring

2.9.18.1 Each remote session will be monitored, and the date, time, duration and user ID will be audited.

2.9.18.2 In order to ensure equitable use of resources, session lengths will time out if the connection remains inactive for a predetermined amount of time (e.g., 30 minutes).

2.9.19 Reporting Violations

2.9.19.1 Employees or contractors observing violations, or receiving emails in violation of this section (2.10) should report the violation as follows:

- i. Matters of a suspected criminal nature (e.g., distribution of child pornography) will be reported to MTPD and/or OIG.
- ii. Materials that violate nondiscrimination laws applicable to WMATA, including but not limited to sexual harassment, shall be reported to CIVR.
- iii. Matters constituting non-criminal serious misuse (e.g., viewing or disseminating pornography and sexually-explicit material, use for non-WMATA profit-making activity) will be reported to OIG.

3 Guidelines and Tools

Guidelines and tools are available with IT offices on policies and procedures. Please reach out for specific guideline to IT Security office for further guidance:

3.1 Guidelines

All users of WMATA IT Systems must follow standard operating procedures issued by IT offices. Each policy or standard has its guidelines to assist business users, contractors and vendors.

3.2 Tools

Following tools are provided to IT personnel as self-service portals. These tools should be used to manage the vulnerabilities and security gaps in the systems.

3.2.1 Security Center – Self-service vulnerability management portal

3.2.2 IBM Endpoint – Patch management tool to apply patches to operating systems.

3.3 Training Requirements

All employees and contracting staff should be trained in their respective technical and soft skills according to their roles and responsibilities. All personnel are required to acknowledge at least annually that they have read and understood the security policy and procedures. All personnel should attend security awareness training upon hire and at least annually.

4 References

Related Policy or other supporting documents