



Washington Metropolitan Area Transit Authority

# **FEDERAL REPRESENTATION and CERTIFICATIONS**

## 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 \_\_\_\_\_.

Name	Signature
Title	Company
Date	

## 2. AFFILIATION AND IDENTIFYING DATA

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

- a. It ☐ is, ☐ is not, owned or controlled by a parent company. For this purpose, a parent company is defined as one 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 contract may be exercised through the use of dominant minority voting rights, use of proxy voting, Contractual arrangements or otherwise.

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

\_\_\_\_\_  
Name of Parent Company

\_\_\_\_\_  
Main Office Address (including ZIP Code)

- c. If the offeror has no parent company, it shall provide in the applicable space below its own employer's identification number (E.I.N.), (i.e., number used on Federal tax returns or, if it has a parent company, the E.I. N. of its parent company). Offeror E.I. N.: \_\_\_\_\_ or, Parent Company's E.I. N.: \_\_\_\_\_

Name	Signature
Title	Company
Date	

### 3. 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	

### 4. 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:

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

Name	Signature
Title	Company
Date	

## 5. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

- a. 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:
- i. 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;
  - ii. 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
  - iii. No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit an offer for the purpose of restricting competition.
- b. Each person signing this offer certifies that:
- i. 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 1) a) through 1) c) above; or
  - ii. 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 1) a) through 1) c) above, or and as their agent he or she does hereby so certify.

Name	Signature
Title	Company
Date	

## 6. NONDISCRIMINATION ASSURANCE

- a. By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, 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	

## 7. **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](http://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:

Name	Signature
Title	Company
Date	

## 8. **CRIMINAL BACKGROUND SCREENING CERTIFICATION (QUARTERLY)**

By submission of this offer, the offeror certifies that:

- a. 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.
- b. It will screen for criminal convictions 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, 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 . 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.

- c. The Contractor shall submit to the COTR a list of all employees and agents who will require Contractor access badges not less than 7 days prior to the date on which access will be required.
- d. 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.
- e. 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.
- f. 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
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Date	

## 9. CERTIFICATION REQUIRED FOR ALL SAFETY-SENSITIVE CONTRACTS.

- a. 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.
- b. 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.

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

Name	Signature
Title	Company
Date	

## 10. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS

- a. It [ ] has, [ ] has not, participated in a previous contract or subcontract subject to either the Equal Opportunity Clause of this solicitation, or the clause contained in Parts II and IV of Executive Order 11246, as amended that prohibits discrimination on the basis of race, color, creed, national origin, sex, age; and
- b. It [ ] has, [ ] has not, filed all required compliance reports; and
- c. Representations indicating submittal of required compliance reports signed by proposed subcontractors will be obtained prior to subcontract awards.

Name	Signature
Title	Company
Date	

## 11. DISADVANTAGED BUSINESS ENTERPRISE

- a. It [ ] is, [ ] is not, a disadvantaged business enterprise.

'Disadvantaged Business Enterprise' means a for-profit small business concern that is at least fifty one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged individuals or, in the case of a corporation, in which fifty one percent (51%) of the stock is owned by one or more

such individuals and whose management and daily business operations are controlled by one or more socially and economically disadvantaged individuals who own it.

'Socially and Economically Disadvantaged Individual' is defined in Appendix B., Notice of Requirements for Disadvantaged Business Enterprise (DBE). By submission of this offer, the offeror represents that:

- b. It ☐ is, ☐ is not, currently certified by Metropolitan Washington Unified Certification Program (MWUCP) as a disadvantaged business enterprise.
- c. Special Certification Requirements for Transit Vehicle Manufacturers. Each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA funded transit vehicle procurements, must certify that it has complied with the DBE requirements of 49 C.F.R. Part 26.
- d. The offeror represents that it ☐ is or ☐ is not a transit vehicle manufacturer and ☐ has or ☐ has not complied with the DBE requirements of 49 C.F.R Part 26.

Name	Signature
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Date	

## 12. **SMALL BUSINESS ENTERPRISE (MAY 2015)**

"Small Business Enterprise" means a for-profit small business concern that is at least fifty one percent (51%) owned by one (1) or more individual(s) who are economically disadvantaged. "Economically Disadvantaged Individual" is defined in Appendix B-1, Definitions, in Notice of Requirements for Small Business Enterprise (SBE) Program.

By submission of this offer, offeror certifies that:

- a. It ☐ is, ☐ is not, a small business enterprise. A firm must be a small business as defined by the U.S. Small Business Administration (SBA) by applying current SBA business size standards found in 13 C.F.R. Part 121 that are applicable to the type of work the firm seeks to perform in USDOT-assisted contracts. The fifty one percent (51%) owner must be a U.S. citizen or permanent resident. A firm must be organized for profit in order to be eligible for SBE certification. The firm's average gross receipts cannot exceed the overall USDOT size standard for a small business set forth in 49 C.F.R. § 26.65. Also, at least fifty one percent (51%) of

the firm's ownership must be held by individuals who meet the personal net worth (PNW) cap prescribed by 49 C.F.R. § 26.67.

- b. It ☐ is, ☐ is not, currently certified by WMATA as a small business enterprise.

Name	Signature
Title	Company
Date	

### 13. **AFFIRMATIVE ACTION COMPLIANCE**

This representation is applicable to federally assisted contracts of \$50,000 or more that are awarded to contractors with fifty (50) or more employees. By submission of this offer, the offeror represents that:

- a. It has a workforce of      employees.
- b. It ☐ has developed and has on file, or ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 C.F.R. §§ 60.1 and 60.2), or
- c. It ☐ has not previously had contracts subject to the written affirmative action program requirements of the rules and regulations of the U.S. Secretary of Labor.

Name	Signature
Title	Company
Date	

### 14. **CLEAN AIR ACT AND CLEAN WATER ACT CERTIFICATION**

This certification is applicable if the Contract will be federally assisted and the offer exceeds \$150,000, or the Contracting Officer believes that orders under an indefinite type Contract in any year will exceed \$150,000 or a facility to be used has been the subject of a conviction under the Clean Air Act [42 U.S.C. § 7413(c)(1)] or the Clean Water Act [33 U.S.C. § 1319(c)], is listed by the U.S. Environmental Protection Agency (EPA) as a violating facility, and the acquisition is not otherwise exempt:

- a. Any facility to be utilized in the performance of this Contract [ ] is, or [ ] is not listed on the EPA's List of Violating Facilities;
- b. Offeror will immediately notify the Contracting Officer, before award, of the receipt of any communications from the Administrator, or a designee of the EPA, indicating that any facility that it proposes to use in the performance of this Contract is under consideration to be listed on the EPA's List of Violating Facilities; and
- c. Offeror will include a certification substantially the same as this certification, including this paragraph, in every non-exempt subcontract.

Name	Signature
Title	Company
Date	

#### 15. DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

This certification is applicable to federally assisted contracts over \$35,000.

- a. 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.
  - i. 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:
    - 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;
    - 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;
    - 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.

- ii. Where the offeror is unable to certify to any of the statements in this certification, the offeror shall attach an explanation to this offer.
- b. Lower Tier Covered Transactions. This certification applies to a subcontract at any tier expected to equal or exceed \$35,000 and will be a continuing requirement throughout the term of this Contract.
  - i. 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.
  - ii. 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.
- c. The Certification required by 10.2, 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	

## 16. CERTIFICATION OF NONSEGREGATED FACILITIES

This certification is applicable to federally assisted contracts over \$10,000.

- a. By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:
  - i. It does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not

and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained.

- ii. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in this Contract.
- iii. As used in this certification, the term 'segregated facilities' means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom or otherwise.
- iv. It further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will:
  - b. Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;
  - c. Retain such certifications in its files; and
  - d. Forward the following notice to such subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):
  - e. NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATIONS
  - f. OF NONSEGREGATED FACILITIES
  - g. A Certification of Non-segregated Facilities must be submitted prior to award of a subcontract exceeding \$10,000 that is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for such subcontract or for all subcontracts during a period (i.e., quarterly, semiannually or annually).

Name	Signature
Title	Company
Date	

## 17. CERTIFICATION OF RESTRICTIONS ON LOBBYING

This certification is applicable to federally assisted contracts if the offer exceeds \$150,000.

- a. By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that to the best of his or her knowledge or belief:
- i. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Contract, the undersigned shall complete and submit Standard Form--LLL, 'Disclosure of Lobbying Activities.
  - iii. The undersigned shall require that the language of this certification be included in all sub-awards (including subcontracts, sub-grants and contracts under grants, loans and cooperative agreements) at all tiers and that all sub-recipients shall certify and disclose accordingly.
- b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352, as amended. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$150,000 for each such failure.
- c. The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C.A. § 3801, et.seq. apply to this certification and disclosure, if any.

Name	Signature
Title	Company
Date	

## 18. BUILD AMERICA, BUY AMERICA ACTS CERTIFICATIONS

Buy America and Build America, Buy America Acts requirements apply to federally assisted construction contracts, and acquisition of goods or rolling stock contracts valued at more than \$150,000.

- a. By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement it will comply with 49 U.S.C. § 5323(j), 49 C.F.R. Part 661, and Pub. L. No. 117-58, §§ 70901-52, which provide that Federal funds may not be obligated unless iron, steel, manufactured products, and construction materials used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7 Separate requirements for rolling stock are set out at 49 U.S.C. § 5323(j)(2)(C) and 49 C.F.R. § 661.11.
- b. An offeror must submit to the Authority, the appropriate Buy America and Build America, Buy America Acts certification (below) with all offers on FTA funded contracts, except those subject to a general waiver. Offers that are not accompanied by completed certifications must be rejected as non-responsive and unacceptable. Certificates from lower tier subcontractors are not required at this time. Mark the applicable certifications below:

i. **Certification requirement for procurement of iron, steel, manufactured products, and construction materials:**

☐ Certificate of Compliance with 49 U.S.C. § 5323(j)(1)

The offeror hereby certifies that it will meet the requirements of 49 U.S.C. § 5323(j)(1), the applicable regulations in 49 C.F.R. § 661.5, and Pub. L. No. 117-58, §§ 70901-52.

☐ Certificate of Non-Compliance with 49 U.S.C. § 5323(j)(1)

The offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. § 5323(j)(1) and 49 C.F.R. § 661.5, and Pub. L. No. 117-58, §§ 70901-52, but it may qualify for an exception pursuant to 49 U.S.C. §§ 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. § 661.7.

ii. **Certification requirement for procurement of buses, other rolling stock and associated equipment:**

☐ *Certificate of Compliance with 49 U.S.C. § 5323(j)(2)(C)*

The offeror hereby certifies that it will comply with the requirements of 49 U.S.C. § 5323(j)(2)(C) and the regulations at 49 C.F.R. § 661.11.

☐ *Certificate of Non-Compliance with 49 U.S.C. 5323§ (j)(2)(C)*

The offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. § 5323(j)(2)(C) and 49 C.F.R. § 661.11, but may qualify for an exception pursuant to 49 U.S.C. §§ 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. § 661.7.

Name	Signature
Title	Company
Date	

## **19. CERTIFICATION OF NON-DELINQUENT TAXES**

This certification is applicable to federally-assisted contracts.

- a.** By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:
  - i.** It has not been convicted over the past three (3) years of violating any Federal criminal tax law or failed to pay any tax.
  - ii.** It has certified if it has been notified of an unresolved tax lien or any unsatisfied Federal tax delinquency in excess of \$3,000 and that it is paying tax debts through an installment agreement or has requested a collections due process hearing.
  - iii.** [omitted]
  - iv.** As used in this certification, the term 'tax delinquency' means an outstanding debt for which a notice of lien has been filed in public records.
  - v.** It further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will:
- b.** Obtain identical certifications from proposed subcontractors before the award of subcontracts;
- c.** Retain such certifications in its files; and
- d.** Forward the following notice to such subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

### **NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATION OF NON-DELINQUENT TAXES**

A Certification of Non-Delinquent Taxes must be submitted prior to award of a subcontract exceeding \$150,000. The certification may be submitted either for such subcontract or for all subcontracts during a period (i.e., quarterly, semiannually or annually).

Name	Signature
Title	Company
Date	