



BIRMINGHAM-JEFFERSON COUNTY TRANSIT AUTHORITY  
**REQUEST FOR PROPOSALS #10-03**

**FIXED ROUTE & PARATRANSIT BUS  
INSPECTION SERVICES**

**KEY DATES:**

Date Issued:	Monday, June 14, 2010
Questions, Clarifications Due:	Monday, June 21, 2010, 5:00 PM
BJCTA Response to Questions/Clarifications:	Tuesday, June 22, 2010, 5:00 PM
Submittal of Proposals Due:	Monday, June 28, 2010, 2:00 PM (CST)

## **NOTICE TO PROPOSERS**

**NOTICE IS HEREBY GIVEN** that the Birmingham-Jefferson County Transit Authority (“BJCTA”) is soliciting sealed proposals from qualified firms to provide professional services as outlined and described in **RFP #10-03 Fixed Route & Paratransit Bus Inspection Services**.

One (1) original and two (2) copies of sealed proposals will be received by the BJCTA, 1735 Morris Avenue - 2nd Floor, Birmingham, AL 35203, in accordance with these instructions and specifications, until **Monday, June 28, 2010, by 2:00 pm Central Daylight Savings Time**, at which time all proposals must be received. All proposal packages must be sealed and clearly marked **"RFP #10-03 Fixed Route & Paratransit Bus Inspection Services."**

This Request for Proposals does not commit the Authority to award a contract, or pay any cost incurred in preparation of bids, or to produce or contract for services. To be considered, proposals must arrive at BJCTA on or before the date specified. If mailing proposals, please allow normal mail delivery time to ensure timely receipt of your proposal. Proposals received prior to the advertised hour of opening will be kept securely sealed. Any proposals received after the time to which reference is made will not be considered and will be returned to the Proposer unopened.

Requests for Approved Equals or Clarification of Specifications must be received by BJCTA in writing (Attachment C) by not later than close of business (5:00 PM) **Monday, June 21, 2010 (CDT)**. Please note that no requests will be considered or answered after this time. Responses will be emailed to those on the List of Potential Bidders, as well as, posted on BJCTA’s website, by close of business on Tuesday, June 22, 2010.

The award of this proposal is contingent upon a financial assistance contract between the Birmingham-Jefferson County Transit Authority and the United States Department of Transportation. The successful Proposer agrees to comply with any and all provisions and regulations relative to that financial assistance contract. Proposers will be required to certify that they have not been suspended or debarred from participation in federally-funded contracts. Proposers must also disclose lobbying activities. Full compliance with all applicable Safety and Health Standards, DBE requirements, Equal Employment Opportunity, and Americans with Disabilities Act laws and regulations will be required of the successful Proposer.

Proposals will be examined and reported to the BJCTA’s Board of Directors within one hundred and twenty (120) days after the proposals have been opened. The BJCTA reserves the right to reject any or all proposals, or to waive any irregularities or informalities in any proposal or in the proposal procedure, or to postpone the opening for good cause. No Proposer may withdraw his proposal for a period of one hundred and twenty days (120) after the scheduled time for the proposal opening. Award of this proposal shall be made to the most responsive and responsible Proposer as determined through the evaluation of the proposals, and which is in the best interest of BJCTA. Each Proposer will be notified, in writing, of award of contract, if award is made.

The Proposal documents are available for download on the BJCTA's website, [www.bjcta.org](http://www.bjcta.org). A Vendor Registration Form, included in this packet, is required to be completed and returned to BJCTA in order for your proposal to be considered and to ensure that your name is listed on the "List of Potential Proposers." This will ensure that you receive timely notification of addenda to this solicitation. Failure to do so, may delay immediate notification of any changes or addenda to this solicitation. Ultimately, however, it is the responsibility of the Proposer to check the BJCTA's website for addenda that may be issued relative to this solicitation.

For additional information, you may contact Collina Washington, Manager of Procurement, at (205) 521-0144 or [cwashington@bjcta.org](mailto:cwashington@bjcta.org).

---

Collina D. Washington  
Manager of Procurement

**Dated at Birmingham, this 14<sup>th</sup> day of June 2010.**

## **GENERAL GUIDELINES FOR COMPLETING THE REQUESTS FOR PROPOSALS PACKAGE**

This document is intended as a guideline to assist Proposers in successfully completing the necessary paperwork. You are strongly encouraged to read the Notice to Proposers Section very carefully. This document is NOT intended to replace the more detailed instructions that are included in the attached Proposal Package.

- It is extremely important that all required forms (Attachments A-M) be filled out completely. Federal and State Regulations mandate that these forms be filled out properly. **Failure to complete all forms included in this package will result in your Proposal being ruled non-responsive.** Non-Responsive Proposals will not be awarded the contract.
- Remember to completely fill out **ALL** required forms. If a form does not apply to your business or proposal, please mark the form “Not Applicable,” or some other similar wording at your discretion. Please also sign and date this form.
- DBE (Disadvantaged Business Enterprise) Obligation: The Birmingham-Jefferson County Transit Authority (“BJCTA”) agrees to ensure that DBEs, as outlined in 49 CFR Part 26, as amended, have the maximum opportunity to participate in the performance of contracts. Therefore, it is imperative that you read the DBE Section and complete the necessary paperwork.
- Please read the Notice to Proposers page to make sure that you have returned the correct number of copies to the RFP.
- Make sure the Proposal Response is received by the BJCTA Procurement Department **before** the designated date and time. **LATE PROPOSALS WILL NOT BE ACCEPTED.**
- Make sure that the proposal is returned in an envelope or box clearly labeled with the following Information: **RFP # 10-03 Fixed Route & Paratransit Bus Inspection Services.** This information should be in the lower left hand corner. The envelope should also be labeled **PROPOSAL DOCUMENTS ENCLOSED**
- When required, attendance at Pre-Proposal Conferences is mandatory. Those not attending will be excluding themselves from the bid process.

When in doubt concerning any issue, please contact **Collina Washington, BJCTA Procurement Manager**, 1735 Morris Avenue, 2<sup>nd</sup> Floor, Birmingham, AL 35203, (205) 521-0144 or [cwashington@bjcta.org](mailto:cwashington@bjcta.org) for assistance.

## TABLE OF CONTENTS

# Request for Proposals #10-03 Fixed Route & Paratransit Bus Inspection Services

- I. SECTION I: SCOPE OF SERVICES/SPECIFICATIONS
- II. SECTION II: INSTRUCTIONS TO PROPOSERS
- III. SECTION III: GENERAL CONTRACT CONDITIONS
- IV. SECTION IV: PRODUCTION SCHEDULES
- IV. SECTION V: REQUIRED FORMS

**THE BIRMINGHAM-JEFFERSON COUNTY TRANSIT AUTHORITY**  
**REQUEST FOR PROPOSALS #10-03**  
***BUS INSPECTION SERVICES***

The enactment of Act No. H-993 in 1971 by the Alabama State Legislature authorized the creation of the Birmingham-Jefferson County Transit Authority (“BJCTA”). Operations began in 1972, providing fixed route and demand response service (Paratransit). While our service area covers the cities of Birmingham, Bessemer, Fairfield, Homewood, Mountain Brook, Tarrant, Hoover, Vestavia Hills, Center Point, Midfield and unincorporated portions of Jefferson County, the BJCTA is a separate entity from its Funding Partners and is governed by a nine-member Board of Directors.

**SECTION I. SCOPE OF SERVICES/SPECIFICATIONS**

The BJCTA has entered into a contract with North American Bus Industries (“NABI”) for the manufacture of twelve (12) 32’ Compressed Natural Gas (“CNG”) LFW fixed route buses and with National Bus Sales (“NBS”) for the manufacture of thirty (30) paratransit vans. The current schedule for production of both vehicles is included in Section IV of these specifications.

To comply with the requirements of 49 CFR Part 663, BJCTA is seeking proposals from qualified firms or individuals to provide bus inspection services. This Scope of Services/Specifications encompasses the oversight of the bus manufacturer’s quality assurance program to assure that it meets with BJCTA’s technical and contract specifications through the original contract solicitation, and complies with the Federal Transit Administration’s (“FTA”) regulations, and any other applicable legal requirements for bus inspection processes. The successful firm will provide bus inspection services to the BJCTA as outlined below:

**1.1 Internal Quality Audit**

The Contractor’s Project Manager and Inspectors will be required to conduct an Internal Quality Audit of the manufacturer’s plant. This audit will encompass material receiving, subcomponent assembly shops and the full production line, up to the shipping station. This audit will assure the manufacturer is following their established overall Quality Assurance Program. The inspections will also be used to measure compliance of the manufacturers QC Program.

**1.2 Factory Inspection, Compliance Audits**

During the pilot bus assembly, the Contractor shall conduct bus production QA inspections. Also during this phase, the bus manufacturer will establish quality control points. The Contractor will participate in a documented specifications compliance audit and performance review. The audit may occur at the factory. BJCTA technical specifications shall be used as a guide for the audit. The performance tests and maintainability requirements in the specifications shall be demonstrated during the audit. All functional aspects of all bus systems shall be tested and proven to be working during the audit.

**1.3 Production Bus Inspections**

The Contractor's inspector shall be on-site to monitor the successful completion of task in the vehicle production process. The contractor shall submit a proposal for a three tier on-site inspection phase which covers all vehicles in production. The vehicle production cycle is attached for proposing the inspection schedule. The resident inspector shall monitor the vehicle's production as required in 40 CFR Part 663 – Subpart C – Post Delivery Audits. In addition, the inspector shall conduct a complete quality assurance/bus-line inspection of each vehicle in each area of production to ensure conformity with BJCTA's specifications. Special attention is to be given to the condition of the chassis and drive train, body and structure, corrosion protection measures, construction, electrical and air conditioning installation, welding operations for sub-assemblies, window and seating installation, and compliance with all BJCTA requirements. This specifically includes review of all ADA equipment and dimensional requirements associated with the bus.

**1.4 Discrepancies**

Discrepancies identified by the Contractor in the bus manufacturer's production quality or inspection process shall be recorded and submitted to the bus manufacturer in writing using an established process. A copy of all documented discrepancies shall be filed at the factory, with copies forwarded to the BJCTA.

**1.5 Completed Bus Inspections**

Following final inspection and function tests by the bus manufacturer, the Contractor shall perform a completed bus inspection. The Contractor shall note all discrepancies and submit to the bus manufacturer for disposition. The Contractor shall re-inspect the bus for all noted discrepancies to ensure repairs were implemented and signed-off on all discrepant items. The Contractor may be required to act as BJCTA's final sign-off authority if so designated in writing by BJCTA.

**1.6 Open Items**

The Contractor shall notify BJCTA of unresolved discrepancies (defects, missing parts, or design issues) that would normally impact shipping or final acceptance of a bus. BJCTA's Project Manager may determine if it is in BJCTA's best interest to authorize the Contractor to ship or accept buses with noted open items. The bus manufacturer shall sign the open items list. An open item must not impact the ability of BJCTA to place the bus in service or otherwise compromise BJCTA's ability to operate the bus safely and effectively. Noted defects that are safety related, or are related to legal requirements, are not allowable. Typically, defects that may be considered left as open items include minor problems such as cosmetic imperfections.

**1.7 Bus Inspection Record**

The Contractor shall review the bus inspection record provided by the manufacturer, which shall contain at a minimum the following items:

- VIN Number
- Manufacturer Inspection Records
- Certificate of Origin
- Weight Slip
- Final Factory Bus Inspection and Function Test Report
- List of Serialized components installed on each bus to include:
  - Engine
  - Transmission
  - Alternator
  - Starter
  - A/C Compressor
  - Drive Axle
  - Power Steering Unit
  - Air Compressor

**1.8** Final Release for Shipment

Upon final stage of inspection, contractor is to notify BJCTA project manager to send a representative from BJCTA to be on site with inspector to review final inspection and receipt of vehicle prior to delivery.

**1.9** The Contractor shall conduct a Post-Delivery Audit as defined in 49 CFR Part 663, and ensure compliance with Buy America, BJCTA's contract specifications and applicable FMVSS. The Contractor shall provide BJCTA with all information required in 49 CFR Part 663 – Subpart (c), via notarized letter certifying compliance with this regulation.

**1.10** Files and Records

The Contractor shall maintain all records, files, correspondence, memorandum and documentation related to the project. All formal correspondence between BJCTA and the bus manufacturer shall be addressed to BJCTA's Contracts Administrator. The Contractor shall maintain individual bus files. These files shall include, as a minimum, manufacturer's station and final inspection sheets, contractor's final inspection sheets, test result certificates, a signed authorization to ship, weight slip and a copy of the certificate of origin. All such files shall be turned over to BJCTA at the conclusion of project tasks, or upon request.

**1.11** Regular Contact

The Contractor shall contact BJCTA's Project Manager daily when on-site at the bus manufacturer's location to communicate relevant issues that may arise affecting contract performance or delivery schedule. Contact can be either by electronic mail or telephone.

**1.12** Weekly Status Reports

The Contractor shall submit weekly written status reports to BJCTA showing hours worked, hours of inspection, and vehicles inspected. These reports must identify in detail any problems encountered during the bus manufacturing process and their resolution.

### **1.13 Formal Meeting Minutes**

The Contractor is required to prepare formal meeting minutes for all meetings held with the bus manufacturer. The formal minutes shall cover all salient information, understandings, recommendations, agreements, all material handed out during the meeting and other information made available at the meeting. Minutes shall be submitted to BJCTA's Project Manager in two working days after the meeting.

### **1.14 Post-Delivery Audit Report**

- 1.14.1 The Buy America portion of the Post-Delivery Audit Report shall be prepared in compliance with 49 CFR Part 663.35 and FTA requirements. The Contractor shall list the component and sub-component parts of the buses purchased, identified by the manufacturers of the components, their country of origin and their costs; and the location of final assembly point for the buses, including a description of the activities that took place at assembly. Finally, the Contractor shall provide BJCTA with a notarized letter certifying that the products used in the bus construction meets the Buy America requirements.
- 1.14.2 The Contract Specification portion of the Post-delivery Audit Report will be conducted in accordance with 49 CFR Part 663.27 (a) and (b). This requires a resident inspector at the manufacturing plant throughout the vehicle construction process. Thus, the Contractor shall identify the resident inspector on duty at the manufacturing site throughout the period of manufacture; provide accurate records of all vehicle construction and certify that the manufacture and operation of the vehicles fulfills the contract specifications. In particular, the report must document all inspections, noted defects/deviations, corrective actions and other items of significance. Finally the Contractor shall provide a notarized letter certifying that the bus was constructed according to BJCTA's approved specifications and complies with Post-Delivery Audit requirements.
- 1.14.3 The FMVSS portion of the Post-Delivery Audit Report will be prepared in accordance with 49 CFR Part 663.33 (c). The Contractor shall confirm to BJCTA the accuracy of the manufacturer's FMVSS self-certification.
- 1.14.4 The Post-Delivery Audits shall be submitted not more than five (5) working days after delivery of the last bus.

**1.15** A final report shall be submitted by the Contractor for each bus and for the overall project in sufficient detail to permit BJCTA to determine that each bus has been built to the maximum level of quality.

**1.16** Configuration and Performance Approval

In order to assess the manufacturer's compliance with the Technical Specifications, the Contractor, under the direction of BJCTA's Project Manager, shall conduct a configuration and performance review. At a minimum, the following dimensional/performance test shall be included in the Configuration and Performance Approval.

- Complete electrical system audit
- Dimensional requirements audit
- Seating capacity
- Water test
- Water runoff test
- Function test of systems/subsystems and components
- Sound/noise level tests
- Vehicle top speed
- Acceleration tests
- Brake stop tests
- Airflow tests
- PA function tests
- AVL/GPS system tests and all other attached electronic equipment and software
- Air/brake system audit
- Individual axle weight
- Standee capacity
- Body deflection tests
- Surveillance camera tests
- Interior lighting
- Exterior lighting
- Gradeability test
- Kneeling system function
- HVAC pull down/heat
- Outside air infiltration (smoke)
- Wheelchair ramps (function and ADA compliance)
- Engine performance: this test shall be jointly conducted by manufacturer and engine manufacturer, including but not limited to, charge air cooler/performance, air to boil test, loss of coolant, fuel system electrical inputs, and engine protection system.
- Transmission performance: this test shall be jointly conducted by manufacturer and transmission manufacturer (including, but not limited to; retarded operation, heat exchanger, interface with ABS, electrical inputs).

## **SECTION II. INSTRUCTIONS TO PROPOSERS**

This information provides prospective contractors with information to enable them to prepare and submit proposals for consideration by the Birmingham-Jefferson County Transit Authority (BJCTA) for architectural and engineering services in the renovations of the operations and vehicle maintenance facility located at 3105 8<sup>th</sup> Avenue North, Birmingham, AL 35203.

### **2.1 Definition of Terms**

The terms "Contractor," "Proposer" and "Bidder" used in this solicitation means the person or firm or their duly authorized representatives proposing to provide the services covered by the scope of services covered in the "scope of services/specifications".

The term "Purchaser" or "BJCTA" or "Recipient" used in this solicitation means the Birmingham-Jefferson County Transit Authority or its duly authorized representative having to do with the purchase, inspection, testing, accepting or rejecting of the service called for in the scope of services/specifications.

The term "Proposal" used in this solicitation means the response to the Request for Proposal submitted by a Contractor, Proposer, or Bidder providing the bid for the work in accordance with the scope of services/specifications.

### **2.2 Solicitation of Bids**

All bids will be solicited in accordance with Policy No. P-130 of the BJCTA's Purchasing Policies and Procedures Manual (Attachment N).

### **2.3 Type of Contract**

Services covered under this contract are to begin upon notice of award and shall extend for a period covered through agreed upon warranty. It is proposed that, if a contract is entered into as a result of this Request for Proposals (RFP), it will be a fixed price contract, not to exceed the submitted bid amount unless specifically agreed upon by the owner.

### **2.4 Format and Required Components of Proposals**

The Proposal shall be complete and concise in description and must be in written form. The Proposal shall demonstrate that the Proposer has the financial and management capability to implement the contract and scope of work functions and that the Proposer fully recognizes the stated

purpose of the scope of work and its elements. The Proposal shall reflect the Proposer's understanding of the scope of work. At a minimum, Proposals must include the following specific information:

2.4.1 Transmittal Letter: The signed transmittal letter should be on company letterhead clearly stating the name of the Proposer's firm, business address, telephone and fax numbers and email address. The following information should be provided:

- a. Introduce the firm and summarize its qualifications;
- b. Names of authorized principals with the authority to negotiate and contractually bind the firm;
- c. An indicate of whether there are any conflicts of interest that would limit the Proposer's ability to provide the requested services;
- d. A statement that binds the Proposer to the Proposal for ninety (90) days;
- e. A statement that, if selected, the Proposer will negotiate in good faith with BJCTA.

2.4.2 Completed Proposal Form.

2.4.3 Table of Contents

2.4.4 Executive Summary

2.4.5 List of Work: Provide contact information for the most recent five (5) clients that the firm or the proposed team has provided similar services within the past three (3) years. For each client submitted, supply a brief description of the work performed.

2.4.6 Cost Proposal: Prove the price/cost proposal in a separate, sealed envelope.

## **2.5 Conditional Bids**

Conditional bids and any bid taking exception to these instructions or conditions or to the General Conditions or Scope of Services, or to other contract requirements, will be considered non-responsive and may be rejected.

## **2.6 Addendum**

Any change in these instructions, the General Conditions or Scope of Services/Specifications, or other requirements will be accomplished by an addendum in writing, sent to all prospective Bidders. All such addenda shall become a part of the contract. Each prospective Bidder is required to acknowledge receipt of all addenda in writing. Failure to acknowledge receipt of all addenda may cause the Proposal to be considered non-responsive, and therefore, rejected.

## **2.7 Work Duties**

The Contractor agrees to perform all work as outlined by BJCTA in accordance with the Scope of Services/Specifications, as well as observe BJCTA's legal holidays except when so prevented by an act of God, accident, strike or circumstances beyond the Contractor's control.

## **2.8 References**

The Contractor shall submit with its Proposal five (5) references from customers now being serviced or from immediate past work. The customer's name, contact person's name and telephone number must be submitted with the Proposal.

## **2.9 Proposals Received**

One original and two copies of sealed Proposals will be received by the Birmingham-Jefferson County Transit Authority, 1735 Morris Avenue, Birmingham, Alabama 35203, in accordance with these instructions and specifications, by June 28, 2010, 2:00 PM (CST) at which time all Proposals should be properly received. To be considered, Proposals must arrive at BJCTA on or before the date specified in the advertisement. Contractors mailing Proposals should allow normal mail delivery time to ensure timely receipt of their Proposals. Proposals received prior to the advertised hour of opening will be kept securely sealed. Any Proposals received after the time to which reference is made will not be considered and will be returned to the Proposer. All Proposals must be sealed and marked appropriately.

## **2.10 Withdrawal of Contract Proposals**

- a) Proposals may be withdrawn on written request received by BJCTA prior to the time fixed for the Proposal opening. The bid security of any Bidder withdrawing its Proposal, in accordance with the foregoing condition, will be returned promptly.

- b) No Proposal may be withdrawn for a period of one hundred twenty (120) days after the time set herein for the public opening and reading of Proposals.

### **2.11 Approved Equals**

Request for approved equals or clarification of specifications must be received by BJCTA in writing, not less than five (5) days before the date of the scheduled opening of Proposals. Any request for an approved equal must be fully supported with the technical data, test results, or other pertinent information as evidence that the substitute offered is equal to, or better than, the specification requirement. The Bidder must demonstrate the equality of its product to BJCTA and must furnish sufficient information to enable BJCTA to determine whether the Proposal's product is or is not equal to that specified.

**PLEASE NOTE THAT ALL BRAND NAMES AND PART NUMBERS IDENTIFIED IN THIS DOCUMENT ARE FOR DESCRIPTIVE PURPOSE ONLY AND APPROVED EQUALS ARE WELCOMED.**

### **2.12 One Bid Situation**

In the event a single bid is received, BJCTA may conduct a price analysis of the Proposal or a cost analysis, or both. A price analysis is the process of examining the Proposal and evaluating a prospective price without evaluating the separate cost elements. It should be recognized that a price analysis through comparison to their similar procurements must be based on an established or competitive price of these elements used in comparison. The comparison must be made to a purchase of similar quantity and involving similar specifications. Where a difference exists, a detailed analysis must be made of this difference and costs attached thereto. Where it is impossible to obtain a valid price analysis, it may be necessary for BJCTA to conduct a cost analysis of the Proposal price. If only one Proposal is received, the sole Bidder must, if a price or cost analysis is conducted, cooperate with BJCTA as necessary in order for its Proposal to be considered.

### **2.13 Tax Exempt**

BJCTA is exempt from payment of Federal, State and local taxes, and such taxes must not be included in the Proposal price. BJCTA will furnish the successful Bidder the necessary tax-exempt certificates.

## **2.14 Substitution**

Written approval for any proposed substitution must be requested specifically from BJCTA's Executive Director, 1735 Morris Avenue, Birmingham, Alabama 35203.

## **2.15 Contractor Responsibilities**

The selected Contractor will be required to assume responsibility for all services offered in its Proposal regardless of who provides them. Further, BJCTA will consider the selected Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the Contract.

## **2.16 News Release**

News releases pertaining to this RFP will not be made without prior BJCTA written approval.

## **2.17 Separate Contracts**

BJCTA reserves the right to issue separate contracts as deemed necessary.

## **2.18 Proposal Familiarity**

Each Bidder shall thoroughly examine and be familiar with all the Contract Documents, including, but not limited to, the legal and procedural documents, bid conditions, scope of work and addenda, if any, as well as any related requirements of these bid conditions and scope of services. The submission of a Proposal shall constitute an acknowledgement that the Bidder has thoroughly examined and is familiar with the Contract Documents and scope of services in every detail.

## **2.19 Bid Security**

Each Proposal shall be accompanied by a certified check or Bidders bond in the amount of five percent (5%) of the bid price made payable to Birmingham-Jefferson County Transit Authority (BJCTA). The bid bond shall be forfeited by the successful Bidder if the successful Bidder fails or refuses to enter into the contract award. Bid security of all Bidders will be held by the Authority until the contract is awarded. Bid security of the unsuccessful Bidders shall be returned within one week after the award of the contract.

## **2.20 Pre-Award Inspections**

The Purchaser reserves the right to perform a pre-award inspection of any Bidder. The purpose of the evaluation will be to assure that the following items, if applicable to the stated services exist:

- A. Has adequate service personnel to satisfy any service problems that may arise during the warranty period.
- B. Has the necessary facilities and financial resources, or has the capability to obtain such facilities and resources, to complete the contract in a satisfactory manner within the required time.
- C. Has adequate quality control to assure that workmanship will comply with the scope of services/specifications.

## **2.21 Proposal Evaluation**

The Evaluation Committee will review proposals based on the following evaluation criteria, listed by their relative degree of importance.

- Criteria 1. Contractor Qualifications, History and Relevant Experience to include List of Recent Clients
  - a. Recent relevant experience of the firm with urban, public-oriented projects similar in scope and/or function.
  - b. Experience with recent clients under contracts for similar services.
- Criteria 2. Project Understanding and Technical Approach
  - a. Demonstrated understanding of the requirements of the RFP and the Proposer's basic goals, objectives, strategy and approach to performing the Contract
- Criteria 3. Costs to Complete the Scope of Work
- Criteria 4. Project Staffing and Quality Control
  - a. The ability to perform the required services as reflected by workload and the availability of adequate personnel, equipment and facilities to do so expeditiously.

Please note that proposals will not be accepted from any firm that is listed on any federal and state disbarment lists.

## 2.22 Proposal Evaluation, Negotiation and Selection

The BJCTA intends to award a Contract to the most qualified, responsible firm submitting a responsive Proposal. An Evaluation Committee, which will include BJCTA staff and may include one or more outside experts, will review and screen the Proposals submitted, according to the evaluation criteria set forth below.

In determining the number of points a Proposal will receive in each category, the BJCTA will consider the Proposal material submitted, oral interviews (if applicable), and any other relevant information about a given Proposer. The firm submitting a responsive Proposal with the highest total weighted score, based upon composite scoring of the Evaluation Committee, will be determined to be the most qualified.

The BJCTA may reject any Proposal in which the approach, qualifications or prices are not deemed to be within an acceptable competitive range. The BJCTA may seek clarifications from any or all Proposers regarding their Proposals. The BJCTA has the right to request best and final offers. The BJCTA, however, may award a contract with negotiations or without requesting best and final offers, so Proposers are encouraged to submit their best Proposal.

### 2.22.1 Compliance Review

Proposals will first be analyzed for conformance with the instructions and requirements of the RFP, in particular to ensure that all required elements described in the specifications or scope of work are included in the Proposal. Proposals that do not comply with these instructions and do not include the required information may be rejected as insufficient and not be considered for further evaluation. Proposers shall therefore pay close attention to and strictly follow all instructions. The BJCTA reserves the right to request a Proposer to provide any missing information and to make corrections. Submittal of a Proposal will signify that the Proposer has accepted the whole of the contract documents, except such conditions, exceptions, reservations or understandings explicitly, fully and separately stated on the forms and according to the instructions of ***Attachment E Form for Proposal Deviation***. Any such conditions, exceptions,

reservations or understanding which does not result in the rejection of the Proposal may be subject to evaluation under the criteria of **Instructions to Proposers, Evaluation Criteria**, or it may be negotiated with the highest ranked Proposer.

#### 2.22.2 Written Proposal Review

The BJCTA Evaluation Committee will review each firm's Proposal in accordance with the criteria of **Instructions to Proposers 16.2 Evaluation Criteria**. Any extreme Proposal deficiencies which may render a Proposal unacceptable will be documented. The BJCTA will make a specific note of questions, issues, concerns, and areas requiring clarification by Proposers and to be discussed in any meetings with Proposers which the BJCTA finds to be within the competitive range.

Proposals that receive the highest scores will be found to be in the competitive range. Proposals that have been determined by the BJCTA as not in the competitive range, and cannot be reasonably made to be within the competitive range, will be notified in writing.

#### 2.22.3 Price Proposal

The Evaluation Committee will evaluate the Price Proposals of those firms determined to be in the competitive range using the evaluation criteria set forth in **Instructions to Proposers, Evaluation Criteria**. Please note that the Price Proposal should be submitted in a separate, sealed envelope.

#### 2.22.4 Clarifications, Interviews, Factory/Site Visits

The Proposer whose Proposals are found by the BJCTA to be within the competitive range, or may be reasonably made to be within the competitive range, may be notified and any questions and/or requests for clarifications provided to them in writing. Each such Proposer may be invited for an interview and discussions with the BJCTA to discuss answers to written or oral questions, clarifications, and any facet of its Proposal.

In the event that a Proposal, which has been included in the competitive range, contains conditions, exceptions,

reservations or understandings to any Contract requirements as provided in **Attachment E Form for Proposal Deviation** said conditions, exceptions, reservations or understandings may be negotiated during these meetings. However, the BJCTA shall have the right to reject any and all such conditions and/or exceptions, and instruct the Proposer to amend its Proposal and remove said conditions and/or exceptions; and any Proposer failing to do so may cause the BJCTA to find such Proposal to be outside the competitive range.

#### 2.22.5 Best and Final Offer (BAFO)

After all interviews and factory/site visits, if any, have been completed, each of the Proposers in the competitive range may be afforded the opportunity to amend its Proposal and make its BAFO. The Request for BAFOs shall include:

- a. Notice that discussions/negotiations are concluded;
- b. A complete listing of the conditions, exceptions, reservations or understandings that have been approved;
- c. A common date and time for submission of written BAFOs, allowing a reasonable opportunity for preparation of the written BAFOs;
- d. Notice that if any modification to a BAFO is submitted, it must be received by the date and time specified for the receipt of BAFOs;
- e. Notice that if Proposers do not submit a BAFO or a notice of withdrawal and another BAFO, their immediate previous Proposal will be construed as their BAFO.

Any modifications to the initial Proposals made by a Proposer shall be identified in its BAFO. BAFOs will be evaluated by the BJCTA according to the same requirements and criteria as the initial Proposals. The BJCTA will make appropriate adjustments to the initial scores for any sub-criteria and criteria which have been affected by any Proposal modifications made by the BAFOs. These final scores and rankings within each criterion will again be arrayed by the BJCTA and considered according to the relative degrees of

importance of the criteria defined in ***Instructions to Proposers, Evaluation Criteria***.

#### 2.22.6 Final Evaluation and Recommendation for Award

Upon completion of the evaluation process set forth above, the BJCTA will rank each firm in accordance with the criteria set forth in ***Instructions to Proposers, Evaluation Criteria***.

The BJCTA reserves the right to conduct pre-award negotiations with any or all Proposers, and the right to award the contract without negotiations. The BJCTA reserves the right to award the Contract without conducting interviews.

This Request for Proposals does not commit the BJCTA to awarding a Contract. Proposers shall bear all costs incurred in the preparation of the Proposal and participating in the Proposal process. The BJCTA reserves the right to reject any all Proposals, the right in its sole discretion to accept the Proposal it considers most favorable to the BJCTA's interest, and the right to waive minor irregularities. The BJCTA further reserves the right to reject all Proposals and seek new Proposals when such procedure is reasonable and in the best interest of the BJCTA.

The Evaluation Committee shall make a recommendation to the Board of Directors. If an award of Contract is made, the Board reserves the right to award the Contract to the responsive and responsible Proposer that it deems offers the most advantageous Proposal to the BJCTA and best meets the requirements of the BJCTA, including technical approach/methodology, qualifications, and cost. Unsuccessful Proposers will be notified in writing regarding the resulting award.

### 2.23 Omissions

If it should appear to a prospective Proposer that the performance of the work under the contract, or any of the matters relating thereto, is not sufficiently described or explained in the RFP or contract documents, or that any conflict or discrepancy exists between different parts thereof or with any federal, state, local or BJCTA law, ordinance, rule, regulation, or other standard or requirement, then

the Proposer shall submit a written request for clarification to the BJCTA within the time period specified above.

## **2.24 Conflict of Interests; Gratuities**

By submitting a Proposal, the Proposer represents and warrants that no director, officer or employee of the BJCTA is in any manner interested directly or indirectly in the Proposal or in the Contract which may be made under it or in any expected profits to arise therefrom.

The Proposer warrants and represents that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest during the performance of services under any contract award. The Proposer further covenants that it will not knowingly employ any person having such an interest in the performance of the Contract. Violation of this provision may result in the Contract being deemed void and unenforceable.

Depending on the nature of the work performed, the Contractor may be required to publicly disclose financial interests under the BJCTA's Conflict of Interest policy. The Contractor agrees to promptly submit a Statement of Economic Interest on the form provided by the BJCTA upon receipt. No person previously in the position of Director, Officer, employee or agent of the BJCTA may act as an agent or attorney for, or otherwise represent, the Contractor by making any formal or informal appearance, or any oral or written communication, before the BJCTA, or any officer or employee of the BJCTA, for a period of twelve (12) months after leaving office or employment with the BJCTA if the appearance or communication is made for the purpose of influencing any action involving the issuance, amendment, awards or revocation of a permit, license, grant or contract.

Contractor shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to the BJCTA. Contractor shall not engage the services of any Subcontractor or consultant on any work related to the Agreement if the Subcontractor or consultant, or any employee of the Subcontractor or consultant, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of the Contract Contractor becomes aware of an organizational conflict of interest in connection with the work performed thereunder, Contractor immediately shall provide the BJCTA with written notice of the facts and circumstances giving rise to this organizational conflict of interest. Contractor's written notice will also propose alternatives for addressing

or eliminating the organizational conflict of interest. The BJCTA will consider the conflict presented and the alternatives proposed and meet with the Contractor to determine an appropriate course of action. The BJCTA's determination as to the manner in which to address the conflict shall be final.

During the term of the Contract, Contractor must maintain lists of its employees, Subcontractors, and consultants used and their employees. Contractor must provide this information to the BJCTA upon request. Submittal of such lists does not relieve the Contractor of its obligation to assure that no organizational conflicts of interest exist.

## **2.25 Ex Parte Communication**

Proposers and Proposers' representatives may not communicate outside the procedures set forth in this RFP with an officer, director, employee or agent of the BJCTA regarding this RFP until after a Notice to Proceed has been issued.

In the context of this RFP, an "ex parte communication" is any communication between a Proposer or their representative and the BJCTA's Executive Director, Board Member, officer or employee, regardless of who initiates the communication, other than as part of the formal procurement process specified herein, before the BJCTA issues a Notice to Proceed, unless it is in writing and available for disclosure to the general public.

## **2.26 Insurance**

Contractor shall not commence work until proper evidence of insurance coverage of the types and amounts specified in this section has been provided to the BJCTA. Contractor shall not violate or permit to be violated any conditions or provisions of said policies of insurance, and at all times shall satisfy the requirements of the insurer for the purpose of maintaining said insurance in effect.

If any claim is made by any third person against Contractor on account of any incident connected to the Contract, Contractor shall promptly report the fact in writing to BJCTA, giving full details of the claim.

Any person, firm, or corporation that Contractor authorizes to work upon the BJCTA's property, including any subcontractor, shall be deemed to be Contractor's agent and shall be subject to all applicable terms of this Contract. Prior to the Contractor's start of the work or entry onto the BJCTA's property, Contractor agrees to require its subcontractors to procure and maintain, at Contractor's (or its subcontractor's) sole cost and expense (and to prove to the BJCTA's reasonable satisfaction that it remains in effect throughout the performance of the work under the Contract), the kinds of insurance described

below. Such insurance must remain in effect throughout the term of the Contract and will be at the sole cost and expense of Contractor (or its subcontractor(s)).

Simultaneously with the execution of the Contract, the Contractor shall furnish BJCTA with certificates of insurance and any other documents which BJCTA may require, such as copies of policies or endorsements as evidence of compliance with the following insurance requirements:

- A. Commercial General Liability Insurance – The Contractor shall, at its own expense, procure and maintain Commercial General Liability insurance providing bodily injury and property damage coverage with a combined limit of at least One Million Dollars (\$1,000,000) each occurrence and a general aggregate limit of at least Two Million Dollars (\$2,000,000). This insurance shall include, but not be limited to, premises and operations; contractual liability covering the indemnity provisions contained in this Contract; personal injury; products and completed operations; and broad form property damage, and include a Cross Liability endorsement. Said policy shall protect Contractor and BJCTA in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company’s liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.
- B. Product Liability – Five Million Dollars (\$5,000,000) per occurrence; Ten Million Dollars (\$10,000,000) annual aggregate for a period of five (5) years.
- C. Business Automobile Liability – Contractor shall, at its own cost and expense, procure and maintain Business Automobile Liability insurance providing bodily injury and property damage with a combined single limited of at least One Million dollars (\$1,000,000) per occurrence for all owned, non-owned and hired automobiles. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.
- D. Workers’ Compensation and Employers’ Liability Insurance – The Contractor shall provide insurance to protect its agents, servants and employees, who are now or subsequently become, subject to the Workers’ Compensation law, in conformance with the statutory limits of the State of Alabama, where applicable:

Admitted in Alabama	YES
---------------------	-----

Employers' Liability	Shall not be less than One Million Dollars (\$1,000,000) for each accident; not less than One Million Dollars (\$1,000,000) for each disease, with a policy limit of One Million Dollars (\$1,000,000)
All States Endorsement	Statutory
Voluntary Compensation	Statutory

The Policy shall contain a waiver of subrogation in favor of the Birmingham-Jefferson County Transit Authority and its officers, directors, employees, volunteers, and agents, while acting in such capacity, and their successors and assignees, as they now or as they may hereafter be constituted, singly, jointly, or severally.

E. Public Liability and Property Damage

1. The Contractor shall have its Public Liability and Property Damage policy endorsed to include the Birmingham-Jefferson County Transit Authority as additionally insured thereunder.
2. The limits of liability of the Public Liability and Property Damage policy shall not be less than the following amounts:
  - i. \$100,000 for bodily injuries to or death of one person in any one occurrence.
  - ii. \$500,000 for bodily injuries to or death of two or more persons in any one occurrence.
  - iii. \$100,000 for damage to or destruction of property in any one occurrence.
3. The Contractor shall have attached to said liability policy a Contractual Liability Endorsement containing a specific reference to and designation of this contract.

F. Errors and Omissions Insurance

G. General Insurance Requirements

1. Acceptable Insurance – All policies will be issued by insurers acceptable to BJCTA. This insurance shall be issued by an insurance company or companies authorized to do business in the State of Alabama with a *minimum* "Best's" rating of B+ and with minimum policyholder surplus of Twenty-Five Million Dollars (\$25,000,000) or a company acceptable to BJCTA, in its sole discretion. All policies shall be issued in a form satisfactory to the Executive Director of the BJCTA and shall be issued specifically as primary insurance.

2. Procure and Maintain Insurance – Contractor must, at its own expense, procure and maintain at all times during the performance of this Contract, all of the required policies specified above. The failure to procure or maintain the required insurance policies and/or an adequately funded self-insurance program acceptable to the BJCTA will constitute a material breach of the Contract.

- i. Terms of Policies – All insurance is to remain in full force and effect until all work under the contract has been satisfactorily completed and accepted by the BJCTA. If the insurance is provided on a claims-made basis, it must remain in force for the entire term of the Contract and a minimum three (3) years thereafter.
- ii. Certificate of Insurance – Proposers are requested to provide a completed sample Certificate evidencing the coverage types and the minimum limits required under this Contract with their Bid. The BJCTA requires this information to facilitate completing Contract formalities in a timely manner if an award is made. The BJCTA may request additional information or clarification if necessary. Prior to commencing of work or entering onto the BJCTA's property, Contractor shall file a Certificate of Insurance with the BJCTA evidencing the foregoing coverages, including the following endorsements:
  1. The insurance company(ies) issuing such policy(ies) will provide at least thirty (30) days' notice to the BJCTA of cancellation or non-renewal.
  2. That the policy(ies) is primary insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim that contractor is liable for under this Section, up to and including the total limit liability, without right of contribution from any other insurance maintained or which may be maintained by the Birmingham-Jefferson County Transit Authority.
  3. Such insurance shall include as additional insureds the BJCTA, and its respective directors, officers, employees, and agents while acting in such capacity, and their successors or assignees, as they now or as they may hereafter be constituted, singly, jointly or severally.

4. The policy must also contain either a Cross Liability endorsement or Severability of Interests Clause and stipulate that inclusion of the BJCTA as an additional insured will not in any way affect the BJCTA's rights as respects any claim, demand, suit or judgment made, brought or recovered against the Contractor. Said policy shall protect Contractor and the BJCTA in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amounts or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.
- iii. Consequence of Lapse – Should any required insurance not be procured or lapse during the term of this Contract, requests for payment originating after such lapse will not be processed until the BJCTA receives satisfactory evidence of reinstated coverage as required by the Contract. If insurance is not reinstated, the BJCTA, may, at its sole option, terminate this Contract effective on the date of such lapse of insurance.
- iv. Certificate of Insurance must be furnished by the Contractor for all required insurance and must be approved by BJCTA in writing before notice to proceed will be given.

## **2.27 Terms of Payment**

In the event the Contractor's performance is satisfactory in all respects, the BJCTA shall make full payment within thirty (30) days following receipt of notice of completion and receipt of an invoice. The BJCTA shall not be obligated to make full payment until such time as it is reasonably satisfied that the work has been completed in accordance with the terms of the contract. BJCTA is not liable for any costs incurred by the Contractor prior to issuance of a contract.

## **2.28 Protests**

The purpose of this bid protest provision is to establish procedures for processing complaints of an interested party on the award of a contract or bid specification and requirements.

### **Filing Instructions**

A protest must be submitted in writing and include the following information:

1. The name and address of the protester.
2. The name and telephone number of the protester contact.
3. A complete statement of the grounds of the protest with full documentation of the protester's claims.

This information must be submitted to the BJCTA's Executive Director who will act as the contact point for all protests.

### **Review of Protests**

BJCTA shall establish a committee to review and evaluate a protest. This committee shall be appointed by the Executive Director and shall include, but not be limited to the following:

1. Procurement Manager
2. Director of Operations & Maintenance
3. Maintenance Manager

The Executive Director may, at his or her discretion, appoint other staff as members to this committee based on their technical expertise or special knowledge of the procurement.

Upon receipt of protest, the Executive Director shall notify the protest committee and establish a time for a committee meeting that will be held no later than two (2) working days after receipt of the protest. This committee shall evaluate the material provided by the protester and shall prepare a written recommendation for the Executive Director concerning the validity of the protest and if appropriate, any corrective action to be taken.

If the initial procurement has been acted upon by the BJCTA Executive Director, the recommendation of the staff shall be reported to the Board and the Board will issue a decision and authorize the staff to take corrective action, if necessary. In all other cases the Executive Director will make the final decision.

### **Time for Filing**

- (a) Any potential Bidder believing that the bid documents or drawings contain restrictive specifications or any other improprieties regarding the solicitation for bids may file a protest with BJCTA which shall be received by BJCTA not later than seven (7) working days prior to the bid opening and shall contain all reasons for the protest. The Authority will respond to the protest within five (5) working days of receipt of the protest, and the protester will have five (5) working days to appeal BJCTA's initial response to the Authority. Once an appeal has been received, the Authority will render its final decision in writing within ten (10) working days.

- (b) Protests received before contract award will be responded to by the Authority within five (5) working days upon receipt of the protest by the Executive Director. The protester will have five (5) working days to appeal the Authority's initial response to the Authority. Once an appeal has been received, the Authority will render its final decision in writing within ten (10) working days.
- (c) Protests filed after contract award must be received by the Authority within five (5) working days after notification of award. The Authority will respond within five (5) working days following the next scheduled BJCTA Board meeting provided the protest is received at least ten (10) working days before the next Board meeting. If the protest is received less than ten (10) working days before a board meeting, the response to the protest shall be received by the protester within five (5) working days after the next scheduled Board meeting. The protester will have five (5) working days to appeal the Authority's initial response to the Authority. Once an appeal has been received, the Authority will render its final decision in writing within ten (10) working days.

In all cases, if deadlines are not met, BJCTA will proceed with awards.

- (d) Protestors dissatisfied with the Authority's final decision may utilize the appeal procedure set forth in FTA Circular 4220.1F.

### **SECTION III. GENERAL CONTRACT CONDITIONS**

Pursuant to Federal, State, and local law, the Contractor agrees to comply with all applicable provisions of Federal, State, and local laws, regulations, and FTA directives. The terms of the most recent amendment to any Federal, State, or local laws, regulations, FTA directives, and amendments to the grant cooperative agreement that may be subsequently adopted, are applicable to the Contract to the maximum extent feasible, unless FTA provides otherwise in writing.

#### **3.1 Documentation of Contract Costs**

All costs charged to the Contract, including any approved services contributed by Birmingham-Jefferson County Transit Authority (BJCTA) or others shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in detail the nature and propriety of the charges.

#### **3.2 Audit and Inspection**

The Contractor shall permit the BJCTA, Secretary and the Comptroller General of the United States, or any of their duly authorized representatives to inspect all work, materials, payrolls, and other data and records with regard to the Project, and to audit the books, records, and accounts pertaining to such contracts with regard to the Project.

#### **3.3 Prohibition Against Use of Federal Funds for Lobbying**

The Contractor shall not use Federal assistance funds for publicity or propaganda purposes designed to support or defeat legislation pending before Congress.

#### **3.4 Equal Employment Opportunity**

The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. All Contractors must insert this clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

### 3.5 Small, Minority and Women's Business Enterprise/Disadvantaged Business Enterprise

- a. **Policy.** It is policy of the BJCTA and the United States Department of Transportation (U.S. DOT) that Disadvantaged Business Enterprises (DBE), as defined in 49 C.F.R. Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this agreement. Consequently, the DBE requirements of 49 C.F.R. Part 23 applies to this agreement.
- b. **DBE Obligation.** The BJCTA and its contractors agree to ensure that disadvantaged business enterprises as defined in 49 C.F.R. Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this agreement. In this regard all recipients and contractors shall take all necessary and reasonable steps in accordance with 49 C.F.R. Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts assisted by the Department of Transportation.

In connection with the performance of this contract, the bidder will cooperate with BJCTA in meeting his/her commitments and goals with regard to the maximum utilization of small business enterprises owned and controlled by socially or economically disadvantaged individuals. BJCTA will take steps to assure that DBEs have the opportunity to bid on this project and that majority bidders will use their best efforts to ensure that DBE's have the maximum practicable opportunity to compete for subcontract work under this contract.

BJCTA's goal is 18% of the total bid amount to be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals (DBEs) as defined by Section 8(d) of the Small Business Act (15 U.S.C. Section 637 (d)). The bidder must demonstrate ability to attain each of these minimum amounts or a good faith effort to do so.

The bidder shall submit a "DBE Utilization Commitment" form showing each DBE to be utilized. If the bidder will be subcontracting less than the stated goal with DBEs then the bidder must complete a "Schedule of DBE Unavailability" form and demonstrate a good faith effort to achieve the goals. Any bidder responding as a small business firm owned and controlled by a socially or economically disadvantaged individual or individuals, must complete a copy of BJCTA's certification form. Copies of all of these forms are included as a part of the RFP.

Contractors and subcontractors shall note that failure to carry out the requirements set forth in 49 C.F. R. 23.43 (a) shall constitute a breach of contract and, may result in termination of the Agreement.

### **3.6 Title VI Civil Rights Act of 1964**

All contractors must comply with all requirements of Title VI of the Civil Rights Act of 1964 (49 U.S.C. 2000d), the regulations of the Department of Transportation set forth at C.F.R. Part 21, and the Assurance by BJCTA pursuant thereto.

### **3.7 Interest of Members of or Delegates to Congress**

No member of or delegates to the Congress of the United States shall be admitted to any share or part of this Project or to any benefit therefrom.

### **3.8 Non-construction Contracts**

The requirements of the clauses contained in 29 C.F.R. 5.5 (b) or paragraphs (10) through (13) of Section 112.a of Part II Terms and Conditions of the Federal Transit Administration Agreement, are applicable in any contract subject only to the contract work hours and safety standards act and not to any of the other statutes cited in 29 C.F.R. 5.1. The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all employees working on the contract. Such records shall contain the correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the Contractor and/or subcontractor for inspection, copying, or transcription by authorized representatives of FTA, DOT, or the Department of Labor, and the Contractor and/or subcontractor will permit such representatives to interview employees during working hours on the job.

### **3.9 State and Local Government Employees**

The provisions of the Fair Labor Standards Act, as amended by Pub. L. 99-150, November 13, 1985, or as may be amended further, are applicable to State and local government employees that participate in the FTA assisted project with the Recipient.

### **3.10 Environmental Policy**

The National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq.; Section 14 of the Federal Transit Administration Act of 1964, as amended, 49 U.S.C. 1601 et seq.; the Council on Environmental Quality regulations set

forth at 40 C.F.R. Part 1500; and the FHWA/FTA regulation, "Environmental Impact and Related Procedures," set forth at 23 C.F.R. Part 771 are applicable to FTA assisted projects of BJCTA.

### **3.11 Compliance with Environmental Standards**

Contractors must comply with all applicable standards, orders, or requirements issued pursuant to Federal statute or regulation. The recipient and any third party contractor thereof shall be responsible for reporting any violations to FTA and to the EPA Assistant Administrator for Enforcement.

### **3.12 Air Pollution**

Contractors must assure BJCTA before acquiring, constructing or improving facilities or equipment, that they are (or will be) designed and equipped to limit air pollution as provided in accordance with the appropriate FTA directives and in accordance with all other applicable standards.

### **3.13 Energy Conservation**

BJCTA and its third party contractors shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. 6321 et seq.

### **3.14 Patent Rights**

If any invention, improvement, or discovery of the Contractor or any of its third party contractors is conceived or first actually reduced to practice in the course of or under this Contract, which invention, improvement, or discovery may be patentable under the laws of the United States of America or any foreign country, BJCTA shall immediately notify the Government (FTA) and provide a detailed report. The rights and responsibilities of BJCTA, third party contractors and the Government with respect to such invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, policies, and any waiver thereof.

### **3.15 Rights in Data**

- a. The term "subject data" as used herein means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to:

- b. All "subject data" first produced in the performance of this Agreement shall be the sole property of the BJCTA. The Contractor agrees not to assert any rights at common law or equity and agrees not to establish any claim to statutory copyright in such data. Except for its own internal use, the contractor shall neither publish nor reproduce such data in whole or in part, or in any manner or form, nor authorize others to do so, without the written consent of the Contractor until such time as the Contractor may have released such data to the public; this restriction, however, does not apply to Agreements with academic institutions.
- c. The Contractor agrees to grant and does hereby grant to the BJCTA and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, non-exclusive, irrevocable license throughout the world:
  - (1) To publish, translate, reproduce, deliver, perform, use and dispose of, in any manner, any and all data not first produced or composed in the performance of this agreement but which is incorporated in the work furnished under this Agreement; and
  - (2) To authorize others to do so.
- d. The Contractor shall indemnify, save and hold harmless the BJCTA, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this Agreement.
- e. Nothing contained in this clause shall imply a license to the BJCTA under any patent or be construed as affecting the scope of any license or other right otherwise granted to the BJCTA under any patent.
- f. Part II, subsections 115.c and 115.d of the "Federal Transit Administration Agreement, Terms and Conditions" are not applicable to material furnished to the Contractor by the BJCTA and incorporated in the work furnished under the contract; provided that such incorporated material is identified by the Contractor at the time of delivery of such work.

- g. In the event that the work, which is the subject of this Agreement, is not completed, for any reason whatsoever, all data generated under the Contract shall become subject data as defined in Part II, subsection 115.a of this Agreement and shall be delivered as the BJCTA may direct.

### **3.16 Cargo Preference-Use of United States-Flag Vessels**

The Contractor agrees --

- a. To utilize privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this section, to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels.
- b. To furnish within 30 days following the date of loading for shipments originating within the United States, or within 30 days following the date of loading for shipment originating outside the United States, a legible copy of a rated, "On-board" commercial ocean bill-of-loading in English for each shipment of cargo described in paragraph (1) above to the recipient (through the prime contractor in the case of subcontractor bills-of-loading) and to the division of National Cargo, Office of Market Development, Washington, D.C. 20590, marked with appropriate identification of the project.

### **3.17 Buy America**

All contractors must comply with Section 165 of the Surface Transportation Assistance Act of 1982, Public Law 97-424, 49 U.S.C. 1601 note (Buy America provision), and FTA to implement this statutory provision. Each party contract resulting from a solicitation issued on or after April 2, 1987, shall conform to the requirements of the Surface Transportation and Uniform Relocation Assistance Act of 1987, Public Law 100-17, 337, April 2, 1987, and any implementing regulations issued thereunder.

### **3.18 Financial Assistance Grant**

The services in the Scope of Services are to be purchased with the assistance of a capital grant from the Federal Government under the Federal Transit Administration Act of 1964 as amended. The successful Bidder and all subcontractors will be required to comply with all terms and conditions prescribed for third party contracts in a grant contract between the United States Federal Government and the purchaser. This grant contract is available for examination by prospective Bidders at the Birmingham-Jefferson County Transit Authority, 1735 Morris Avenue, Birmingham, Alabama 35203.

### **3.19 Approval of U.S. Department of Transportation**

Where required, the award of a contract will be subject to the concurrence of the Federal Transit Administration (FTA).

### **3.20 Federal Regulations**

1. It is required that the attached non-collusion affidavit (Attachment D) shall be executed and delivered with the Proposal.
2. Bidders must certify that they are not on any U.S. Controller General's list of ineligible Bidders or the Consolidated List of Persons or Firms Currently Debarred for Violation of Various Contracts Incorporating Labor Standards Provision.
3. The bidder shall comply with all applicable Federal, State and local laws and their respective rules and regulations. This compliance shall be at the Contractor's expense.

## **SECTION IV**

# **PRODUCTION SCHEDULES**





**BIRMINGHAM-JEFFERSON COUNTY TRANSIT AUTHORITY**  
Fixed Route Bus Procurement

ID	Task Name	Duration	Start	Finish	2009												2010											
					1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			1st Quarter			2nd Quarter			3rd Quarter			4th Quarter		
					May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov					
1	<i>I. OBTAIN ASSIGNMENT</i>	43 days	Thu 6/18/09	Mon 8/17/09																								
2	✓ Make formal request to LAMetro for assignment of 12 - 31' Low Floor, CNG Vehicles	16 days	Thu 6/18/09	Thu 7/9/09																								
3	✓ Receive Approval of Assignment from LAMetro	11 days	Thu 7/9/09	Thu 7/23/09																								
4	✓ Receive and Review Contract Documents to ensure compliance with Federal Transit Administration requirements re: Piggybacking	17 days	Thu 7/23/09	Sat 8/15/09																								
5	✓ Meet with officials at North American Bus Industries to review specifications, obtain proposed delivery schedule and receive final price quotation	1 day	Fri 7/31/09	Fri 7/31/09																								
6	Review Assignment Agreement	2 days	Fri 8/14/09	Mon 8/17/09																								
7	<i>II. OBTAIN BOARD APPROVAL</i>	26 days	Wed 8/19/09	Wed 9/23/09																								
8	<b>Make Presentation to Finance Committee per request of Committee Chair</b>	26 days	Wed 8/19/09	Wed 9/23/09																								
9	✓ <b>Advise Committee of efforts toward obtaining assignment from LAMetro and request submission to full Board for approval prior to August 31, 2009 to ensure 13 month delivery</b>	6 days	Wed 8/19/09	Wed 8/26/09																								
10	✓ Obtain revised Quotation and updated proposed delivery schedule from NABI as a result of Board delay of vote	6 days	Wed 8/19/09	Wed 8/26/09																								
11	Schedule meeting with Legal Counsel to go over details of assignment and revised agreement	7 days	Wed 8/26/09	Thu 9/3/09																								
12	Prepare Staff Summary and Provide supporting documentation to Legal Counsel for their review	4 days	Thu 9/3/09	Tue 9/8/09																								
13	Present to Finance and Program Development Committees for recommendation to full Board for approval	7 days	Tue 9/8/09	Wed 9/16/09																								
14	Board of Directors Approval Obtained	1 day	Wed 9/23/09	Wed 9/23/09																								
15	✓ <i>III. PRE-PRODUCTION &amp; ENGINEERING</i>	60 days	Wed 9/23/09	Mon 12/14/09																								
16	✓ Issue Purchase Order to NABI to ensure agreed upon delivery date	60 days	Wed 9/23/09	Mon 12/14/09																								
17	✓ Schedule Pre-Production Meeting with NABI Engineering, Production Staff	60 days	Wed 9/23/09	Mon 12/14/09																								
18	✓ <b>Prepare for Pre-Production Meeting</b>	60 days	Wed 9/23/09	Mon 12/14/09																								
19	✓ Pre-Production meeting scheduled for October 19-20 at NABI	1 day	Fri 10/2/09	Fri 10/2/09																								
20	✓ Determine what staff will need to attend	7 days	Fri 10/2/09	Fri 10/9/09																								
21	✓ Review bus specs	5 days	Fri 10/9/09	Thu 10/15/09																								
22	✓ <b>Determine Paint and Design Scheme</b>	29 days	Mon 10/19/09	Thu 11/26/09																								
23	✓ Submit sample scheme for preliminary pricing	2 days	Mon 10/19/09	Tue 10/20/09																								

Information Provided By:  
Collina Washington, Manager of Procurement  
BHAM-JEFF COUNTY TRANSIT AUTHORITY

Task Progress Summary External Tasks Deadline   
 Split Milestone Project Summary External Milestone



## **SECTION V**

### **REQUIRED FORMS**



**ATTACHMENT A-1**  
**QUESTIONNAIRE**

**A. SUBMITTING BUSINESS ENTITY IDENTIFICATION & OWNERSHIP DISCLOSURE**

Company: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone No.: \_\_\_\_\_

Indicate which of the following apply:

- Corporation
- Partnership
- Sole Proprietor
- Small Business
- Disadvantaged Business Enterprise (DBE)

Certified by \_\_\_\_\_

Organized under the laws of the State of \_\_\_\_\_

Principal place of business located at \_\_\_\_\_

**B. CONFLICTS OF INTEREST & PUBLIC PROCUREMENT**

The Proposer (\_\_\_\_) is (\_\_\_\_) is not aware of any information bearing on existence of any potential conflicts of interest or violation of ethics in public contracting. If yes, explain.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C. OTHER INFORMATION

1. General character of work performed by your firm:

---

---

---

---

---

2. Has your firm every failed to complete any work awarded to you? If yes, explain.

---

---

---

---

---

3. Has your firm ever defaulted on a contract? If yes, explain.

---

---

---

---

---

4. Indicate the names of subcontractors, if any, proposed for this project, anticipated role, anticipated level of effort, address, phone number, and contact person. Indicate if the subcontractor is a certified Disadvantaged Business Enterprise (DBE) and by whom they are certified.

---

---

---

---

---

5. Please indicate if your firm, subcontractor or any persons associated therewith in the capacity of owner, partner, director, officer or any other position involving the administration of federal funds:

is currently under suspension, debarment, voluntary exclusion, or determination of ineligibility of any federal agency;

has been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the last three (3) years;

has a proposed debarment pending; or

has been indicted, convicted, or had a civil judgment rendered against it or them by a court competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Any of the above conditions will not necessarily result in denial of award, but will be considered in determining Offeror responsibility. For any condition noted, indicate to whom it applies, initiating agency, and date of action. Providing false information may result in federal criminal prosecution or administrative sanctions.

#### CERTIFICATION

I certify that this proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a proposal for the same services, materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of the State and Federal law and can result in fines, prison, sentences, and civil damage awards.

I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete. I agree to abide by all conditions of this Request for Proposals and certify that I am authorized to sign for the Proposer.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Name (Printed) \_\_\_\_\_ Title \_\_\_\_\_



**ATTACHMENT C**  
**ACKNOWLEDGMENT OF ADDENDA**

The following form shall be completed and included in the Proposal.

Failure to acknowledge receipt of all addenda may cause the Proposal to be considered non responsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the Offer.

**ACKNOWLEDGMENT OF ADDENDA**

The undersigned acknowledges receipt of the following addenda to the documents:

Addendum No.	,	Dated	
Addendum No.	,	Dated	
Addendum No.	,	Dated	
Addendum No.	,	Dated	
Addendum No.	,	Dated	
Addendum No.	,	Dated	
Addendum No.	,	Dated	
Addendum No.	,	Dated	

Offeror:	
	Name
	Street Address
	City, State, Zip
	Signature of Authorized Signer
	Title
	Phone

**ATTACHMENT D**  
**AFFIDAVIT OF NON-COLLUSION**

I hereby swear (or affirm) under penalty of perjury:

1. That I am the bidder (if the bidder is an individual), a partner of the bidder (if the bidder is a partnership), or an officer or employee of the bidding corporation, having authority to assign on its behalf (if the bidder is a corporation); and
2. That the attached bid or bids have been arrived at by the bidder independently, and have been submitted without collusion with, and without any agreement, understanding or planned common course of action with any other vendor of materials, supplies, equipment or services described in the request for proposal, designed to limit independent bidding or competition; and
3. That the contents of the bid or bids have not been communicated by the bidder or its employees or agents to any person not an employee or agent of the bidder or its surety on any bond furnished with the proposal or proposals, and will not be communicated to any such person prior to the official opening of the proposal or proposals; and
4. That no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by \_\_\_\_\_; and
5. That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

The \_\_\_\_\_ hereby certifies that it is/ is not included on the United States Comptroller General's consolidated list of persons or firms currently debarred for violations of various public contracts incorporated labor standards provisions.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed or Typed Name of Affiant

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Firm's Employee Identification Number

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_, 20 \_\_\_\_\_.

**ATTACHMENT E**  
**BUY AMERICA CERTIFICATION**  
**CERTIFICATE OF COMPLIANCE**

To: Birmingham-Jefferson County Transit Authority

In accordance with Section 165 of the Surface Transportation Assistance Act of 1982, Public Law 97-424, Parts 660-661, and implementing guidelines and regulations, the bidder hereby certifies that all steel, cement, and manufactured products used in connection with this contract are produced and assembled in the United States.

Listed below are end products that are of foreign or unknown origin (end items considered to have been mined, produced, or manufactured outside the United States) that does not comply with the requirements of Section 165 and the regulations as set forth. For each item listed, I have submitted to the Birmingham-Jefferson County Transit Authority an application for exception and will abide by the decision for granting or denying the request.

---

---

---

---

---

---

---

**Certificate of Compliance**

The Offeror hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 C.F.R. 661.11 and any implementing guidance FTA may issue:

Authorized Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Certificate of Non-Compliance**

The Offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 C.F.R. 661.7:

Authorized Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Company Name: \_\_\_\_\_  
Date: \_\_\_\_\_

One of the four certifications (one in (a) OR (b) below), as appropriate, must be marked; AND the information in (c) and (d) below, including a signature, must be provided.

(a) Certificate requirement for **PROCUREMENT OF STEEL OR MANUFACTURED PRODUCTS** (Mark one with an "X"):

\_\_\_\_\_ (1) CERTIFICATE OF COMPLIANCE WITH 49 U.S.C. 5323(j)(l). The proposer or Proposer hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j) (l) and the applicable regulations in 49 CFR Part 661.5; or

\_\_\_\_\_ (2) CERTIFICATE FOR NON-COMPLIANCE WITH 49 U.S.C. 5323 (j) (l). The proposer or Proposer hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j) (l) and 49 CFR 661.5, 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 CFR 661.7.

(b) Certificate requirement for **PROCUREMENT OF BUSES, OTHER ROLLING STOCK, AND ASSOCIATED EQUIPMENT** (Mark one with an "X"):

\_\_\_\_\_ (1) CERTIFICATE OF COMPLIANCE WITH 49 U.S.C. 5323 (j)(2)(C). The proposer or Proposer hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j) (2) (C) and the regulations at 49 CFR Part 661.11; or

\_\_\_\_\_ (2) CERTIFICATE FOR NON-COMPLIANCE WITH 49 U.S.C. 5323 (j)(2)(C). The proposer or Proposer hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j) (2) (C) and 49 CFR 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 CFR 661.7.

(c) If the Proposer/Proposer certifies compliance with Buy America it shall submit documentation which lists (1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and (2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and cost of final assembly.

**ATTACHMENT F**  
**DEBARMENT AND SUSPENSION CERTIFICATON**

The Offeror certifies, by submission of this Offer, that neither it nor its “principals” as defined at 49 C.F.R. § 29.105(p) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

If the prospective Offeror is unable to certify to the statement above, it shall attach an explanation, and indicate that it has done so, by placing an “X” in the following space:  
\_\_\_\_\_.

**THE OFFEROR, \_\_\_\_\_, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND EXPLANATION, IF ANY. IN ADDITION, THE OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET. SEQ. APPLIES TO THIS CERTIFICATION AND EXPLANATION, IF ANY.**

\_\_\_\_\_  
Signature of the Offeror’s Authorized Official

\_\_\_\_\_  
Name and Title of the Offeror’s Authorized Official

\_\_\_\_\_  
Date

**ATTACHMENT G**  
MANUFACTURER'S SELF-CERTIFICATION OF COMPLIANCE WITH  
FEDERAL MOTOR VEHICLE SAFETY STANDARDS

On behalf of the manufacturer of the vehicles and parts to be provided under this contract, I certify that such equipment complies with the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in 49 CFR Part 571, and any other applicable federal or Alabama regulations.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Type Name and Title

\_\_\_\_\_  
Type Manufacturer's Name

\_\_\_\_\_  
Date

## ATTACHMENT H CONFLICT OF INTEREST STATEMENT

Proposers shall provide a list of all entities/individual(s) with which it has relationships that create, or would appear to create, a conflict of interest with the work that is contemplated by this RFP. The list should indicate the name of the entity/individual, the relationship to the Proposer, and a discussion of the conflict.

Because Final Award of this RFP will be decided upon by the Birmingham-Jefferson County Transit Authority's Board of Directors, a listing of its members has been included below. Please also provide a description of relationships with any or all Board Members that would create, or would appear to create, a conflict of interest.

BOARD MEMBER	MEMBER ENTITY
Joyce Brooks	City of Birmingham
Frank C. Galloway, Jr., Esq.	City of Mountain Brook
Brian Hamilton	City of Birmingham
Walter R. Jones	City of Homewood
Johnnye P. Lassiter	City of Bessemer
Ronald Lyas	City of Birmingham
Doris Powell	City of Birmingham
Guin Robinson	City of Birmingham
Rev. Patrick Sellers	Jefferson County

I hereby disclose the following persons, entities, or interests and with which there is an interest or involvement that may result in an actual or potential conflict of interest, directly or indirectly:

---



---



---



---



---

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**ATTACHMENT I**  
**LOBBYING CERTIFICATION**

The Offeror certifies, to the best of its knowledge and belief, that:

- (1) No Federal 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 a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. 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 thereof.
- (2) If any funds other than Federal 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 Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instruction, as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96).
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**THE OFFEROR, \_\_\_\_\_, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.**

\_\_\_\_\_ Signature of the Offeror's Authorized Official  
\_\_\_\_\_ Name and Title of the Offeror's Authorized Official  
\_\_\_\_\_ Date

**Note:** *The filing of Standard Form LLL (Rev. 7-97, OMB 0348-0046) and full disclosure is required pursuant to 31 U.S.C. section 1352 for each instance described above, whether or not federal monies are used. The information requested through this certification is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance is placed by the Birmingham-Jefferson County Transit Authority when the transaction referred to in this solicitation is made or entered into.*

**GOOD FAITH EFFORT**  
***(For information only – NOT TO BE RETURNED)***

1. BJCTA has established a 18% overall goal to be expended with DBE's. Therefore a Proposer must, in order to be responsible and responsive, make a good faith effort to meet the goal. The Proposer can meet this requirement in either of two ways. First, the Proposer can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the Proposer can document adequate good faith efforts. This means that the Proposer must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part, which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.
2. BJCTA will use the good faith efforts mechanism as required by 49 CFR Part 26. It is up to BJCTA to make a fair and reasonable judgment whether a Proposer that did not meet the goal made adequate good faith efforts. BJCTA will consider the quality, quantity, and intensity of the different kinds of efforts that the Proposer had made. The efforts employed by the Proposer should be those that one could reasonably expect a Proposer to take if the Proposer were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract requirements. As emphasized by the Alabama Department of Transportation, BJCTA's determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.
3. BJCTA will not require that a Proposer meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the Proposer makes an adequate good faith effort showing. The rule specifically prohibits BJCTA from ignoring bona fide good faith efforts.
4. The following is a list of types of actions that BJCTA will consider as part of the Proposer's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.
  - a. Soliciting through all reasonable and available means (e.g. attendance at pre-proposal meetings, advertising and written notices) the interest of all certified DBE's who have the capability to perform the work of the contract. The Proposer must solicit this interest within sufficient time to allow the DBE's to respond to the solicitation. The Proposer must determine with certainty if the DBE's are interested by taking appropriate steps to follow up initial solicitations.
  - b. Selecting portions of the work to be performed by DBE's in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically

feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

- c. Providing interested DBE's with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- d. Negotiating in good faith with interested DBE's. It is the Proposer's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBE's that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBE's to perform the work.

A Proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBE's is not in itself sufficient reason for a Proposer's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Proposer of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBE's if the price difference is excessive or unreasonable.

- e. Not rejecting DBE's as being unqualified without sound reasons based on a thorough investigation of their capabilities.

## ATTACHMENT J DBE LETTER OF INTENT

To: \_\_\_\_\_  
(Name of Prime Proposer)

The undersigned intends to perform work in connection with the above project as a DBE in the following capacity (check one):

- Individual                                       Corporation  
 Partnership                                       Joint Venture

The Disadvantaged Business status of the undersigned is confirmed:

- (a) On the reference list of Disadvantaged Business Enterprises dated \_\_\_\_\_, or  
 (b) On the attached Disadvantaged Business Enterprise Identification Statement.

The undersigned is prepared to perform the following work in connection with the above project *(specify in detail the particular work items or parts thereof to be performed)*:

---



---



---



---

At the following price: \$ \_\_\_\_\_

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

Items	Projected Date of Commencement	Projected Date of Completion

The above work will not be sublet to a non-Disadvantaged Business Enterprise at any tier. The undersigned will enter into a formal agreement for the above work with you, conditioned upon your execution of an agreement with BJCTA.

Date \_\_\_\_\_  
Name of Disadvantaged Business Enterprise

By \_\_\_\_\_

**ATTACHMENT K**  
**DBE AFFIDAVIT**  
(To be completed by the DBE)

STATE OF \_\_\_\_\_ (DATE \_\_\_\_\_)  
COUNTY OF \_\_\_\_\_

The undersigned being duly sworn, deposes and says that he/she is the (*sole owner, partner, president, treasurer or other duly authorized official of a corporation*) \_\_\_\_\_ of (*Name of Company*) \_\_\_\_\_ and certifies that since the date of its certification by the Alabama Department of Transportation or other state DOT, the certification has not been revoked nor has it expired nor has there been any change in the minority status of (*Name of DBE*) \_\_\_\_\_.

\_\_\_\_\_  
(Signature and Title of Person Making Affidavit)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(Notary Public)

**NOTE:** The Offeror must attach the DBE's most recent certification letter or document to this affidavit.

## ATTACHMENT L DBE UNAVAILABLE CERTIFICATION

I, \_\_\_\_\_, \_\_\_\_\_ of  
(Name) (Title)

\_\_\_\_\_ certify that on \_\_\_\_\_ I contacted  
(Company Name/Prime Contractor) (Date)

the following Disadvantaged Business Enterprise to obtain a proposal/bid for the following work items.

Disadvantaged Contractor	Work Items Sought	Form of Proposal or Bid Sought (Unit price, materials & labor, labor only, etc.)

To the best of my knowledge and belief, said Disadvantaged Business Enterprise was unavailable for work on this project, or unable to prepare a proposal/bid for the following reason(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ was offered an opportunity to bid on  
(Name of Disadvantaged Business Enterprise)  
 the above identified work on \_\_\_\_\_ by \_\_\_\_\_  
(Date) (Source)

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

\_\_\_\_\_ \_\_\_\_\_  
(Signature of Disadvantaged Business Enterprise) (Date)  
 \_\_\_\_\_  
(Title)

## **ATTACHMENT M**

### **DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS**

This contract is subject to the provisions of the Davis Bacon Act. Contractors must submit certified payroll documentation with every invoice. Failure to do so will result in invoice being rejected.

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) Except with respect to helpers as defined as 29 CFR 5.2(n) (4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
  - (2) The classification is utilized in the area by the construction industry; and
  - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
  - (4) With respect to helpers as defined in 29 CFR 5.2(n) (4), such a classification prevails in the area in which the work is performed.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so

advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) **Withholding** - The BJCTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the BJCTA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the

registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the BJCTA for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a) (3) (i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

- (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a) (3) (i) of Regulations, 29 CFR part 5 and that such information is correct and complete;
  - (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
  - (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
- (D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

**(4) Apprentices and trainees - (i) Apprentices** - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall

be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

- (5) **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- (6) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- (7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- (8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (9) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- (10) **Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
  - (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
  - (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

## CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

### Background and Application

The Contract Work Hours and Safety Standards Act is codified at 40 USC 3701, et seq. The Act applies to grantee contracts and subcontracts “financed at least in part by loans or grants from ... the [Federal] Government.” 40 USC 3701(b) (1) (B) (iii) and (b) (2), 29 CFR 5.2(h), 49 CFR 18.36(i) (6). Although the original Act required its application in any construction contract over \$2,000 or non-construction contract to which the Act applied over \$2,500 (and language to that effect is still found in 49 CFR 18.36(i)(6)), the Act no longer applies to any “contract in an amount that is not greater than \$100,000.” 40 USC 3701(b) (3) (A) (iii).

The Act applies to construction contracts and, in very limited circumstances, non-construction projects that employ “laborers or mechanics on a public work.” These non-construction applications do not generally apply to transit procurements because transit procurements (to include rail cars and buses) are deemed “commercial items.” 40 USC 3707, 41 USC 403 (12). A grantee that contemplates entering into a contract to procure a developmental or unique item should consult counsel to determine if the Act applies to that procurement and that additional language required by 29 CFR 5.5(c) must be added to the basic clause below.

### **CONTRACT WORK HOURS AND SAFETY STANDARDS**

- (1) **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

- (3) **Withholding for unpaid wages and liquidated damages** - The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

<b>ATTACHMENT N</b>		<b>POLICY NO.:</b> P-130
		<b>SUBMITTED BY:</b>
<b>TITLE:</b> CONSTRUCTION CONTRACTS – EVALUATION AND AWARD		<b>APPROVED BY:</b>
<b>EFFECTIVE DATE:</b>	<b>SUPERCEDES NO:</b>	<b>PAGE NO.:</b> 1 OF 4

**Purpose**

To provide policy concerning the solicitation of competitive bids.

**Scope**

This policy applies to transactions on materials and/or services with an estimated unit price of \$5,000.00 or over and/or covered by contractual agreement.

For material and/or services with an estimated unit price of under \$5,000.00 and not covered by a contractual agreement, see Quotations.

**General**

1. Bid request should be typed using a standard form whenever possible. Complete information should be provided including, but not limited to, quantity, description, delivery requirement, special conditions, drawings, specifications, date information required, etc. If replies are to conform to certain format, this should be spelled out. Staff Members must be thorough and attempt to remove all known variables.
2. A minimum of three suppliers are acceptable, providing the Purchasing Agent is familiar with the market and prices of the material in question. In the case of proprietary items, more than one price is often not possible and should be so noted on the requisition.
3. Staff Members, when obtaining bids, should keep in mind other segments of the Authority that may be able to provide the desired material or services. If there are any questions, contact the Purchasing Office. The following requirements shall apply:
  - a. A sufficient time shall be allowed prior to the date set for opening of bids.
  - b. Bids shall be solicited from an adequate number of known suppliers.
  - c. The invitation shall be publicly advertised.
  - d. The invitation for the bids shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.

- e. All bids shall be opened publicly at the time and place stated in the invitation for bids.
- f. A contract award shall be made by written notice to that responsible bidder whose bid, conforming to the Invitation for Bids, is lowest in price.
- g. Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program.

These requirements are appropriate for both BJCTA-funded and FTA-funded procurements.

- 4. Maintenance of an Approved Vendor List is advisable but not mandatory. Examination of the financial condition of a company, its ability to perform, and its facilities should be part of the criteria for an acceptable vendor.
- 5. Answers to technical questions arising during the bidding process should be provided by the requisitioner. The staff member must coordinate the reply with the Purchasing Agent and ensure all potential suppliers are provided the same information.
- 6. After all bids have been received and examined for completeness, a summary sheet is to be prepared noting all the pertinent data and discrepancies. Determination of the low bidder and award of the order will be made by the Purchasing Agent only after all aspects including preference of the requisitioner have been considered. The information gathered will be kept with the purchase order as backup documentation. In cases of bids for estimating purposes, a copy of each bid response is to be sent to the requisitioner along with the bid summary sheet.
- 7. Purchasing staff members will not reveal to a vendor at any time the prices quoted during the bid process.
- 8. In order to ensure that vendors contacted have responded to a bid request, staff members will identify on the requisition all vendors solicited, and response.
- 9. It is a good practice to notify unsuccessful vendors that the bid has been closed and awarded. It is not necessary to note the name of the successful bidder.
- 10. Unless a specific exception has been obtained from the Purchasing Agent, bids shall not be solicited from nor any order placed with, any company that:

- a. Is owned, controlled or actively influenced by any company employee or immediate relative of said employee.
  - b. Employs in a management, consulting or sales capacity any person who is an Authority employee.
  - c. Employs in any capacity an Authority employee who is in a position to influence the selection of, or conduct business with, such supplier.
11. When circumstances warrant the solicitation of competitive bids inappropriate, the Purchasing Agent shall obtain the specific approval of the Executive Director.
  12. The Purchasing Agent should review bids for responsiveness and responsibility, recommend award to responsible bidder, submitting the lowest responsible bid, price and other factors considered and prepare Board resolution which should be reviewed by Authority's executive director.
  13. The Executive Director will approve for submission to the Board of Directors.
  14. The Board of Directors will accept or reject recommendation for award.
  15. Contract should be prepared by the Purchasing Officer and reviewed by Authority's attorney.
  16. All contracts should be signed by the Executive Director.

### **Responsibilities**

The Purchasing Agent has the responsibility for maintaining a uniform set of procedures and forms to serve the bid process. Consideration should include the need for mechanisms for vendor notification, bid analysis and summary, bid bonds, bidder mailing list applications, competitive invitations, instructions to bidders, policy statement of bid award, power-of-attorney forms and sealed bid envelopes.

The Purchasing staff is responsible for obtaining bids on all material and/or services covered under this policy for both estimating purposes and purchases.

All bids for proposed contracts over \$5,000 shall be accompanied by bid bonds.

### **Award Policy**

The following factors in combination, not necessarily listed in their order of importance, will be considered in reviewing bids and awarding contracts:

1. Prices
2. Bidder's previous record of performance and service
3. Ability of bidder to render satisfactory service in this instance with our using departments
4. Quality and conformance to specifications

The Authority reserves the right to reject any and all bids, waive informalities and to contract as the best interest of the Authority may require.

**VENDOR REGISTRATION FORM**  
*(This Form Must Be Received Prior To Proposal Submission)*

RFP or IFB Number: RFP 10-03

RFP or IFB Description: Fixed Route & Paratransit Bus Inspection Services

Company Name/Vendor: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Office Number: (     ) \_\_\_\_\_

Fax Number: (     ) \_\_\_\_\_

Cell Number: (     ) \_\_\_\_\_

Email Address: \_\_\_\_\_

Website: \_\_\_\_\_

Product/Service: \_\_\_\_\_

NAICS Codes: \_\_\_\_\_

Fax To:     **BJCTA**  
Attn: Collina Washington, Manager of Procurement  
(205) 252-7633 Fax

or

Email To:     cwwashington@bjcta.org



## CHECKLIST

The following items must be included in your proposal in order to receive consideration. Federal and State Regulations mandate that these forms be filled out properly. Failure to complete all forms included in this package may result in your Bid being ruled non-responsive. Non-Responsive Bids will not be awarded the contract.

If a form does not apply to your business or bid, please mark the form "Not Applicable," or some other similar wording at your discretion. Please also sign and date the form. **No proposal shall be considered unless it contains all fully executed certifications.**

- Vendor Registration Form (to be submitted prior to proposal submission)  
(Date Faxed or Emailed) \_\_\_\_\_
- Attachment A** Bid/Proposal Form
- Attachment A-1** Questionnaire
- Attachment B** Request for Change or Approved Equal
- Attachment C** Acknowledgment of Addenda
- Attachment D** Affidavit of Non-Collusion
- Attachment E** Buy America Certificate
- Attachment F** Debarment and Suspension Certification
- Attachment G** Manufacturer's Self-Certification of Compliance with Federal Motor Vehicle Safety Standards
- Attachment H** Conflict of Interest Statement
- Attachment I** Lobbying Certification
- Attachment J** DBE Letter of Intent
- Attachment K** DBE Affidavit
- Attachment L** DBE Unavailable Certification
- Attachment M** Davis-Bacon and Copeland Anti-Kickback Acts