



Request for Proposals

[Non-Federal]

Title: On-Call Legal Services 2024

Solicitation No.: 0000009173

Contract Type: Indefinite Delivery/Quantity

Contract ID: CCOUN233261

Open Date: Dec 30, 2022 02:28 PM

Pre-Proposal Conference Date: N/A

Question Due Date: Jan 16, 2023, 5:00 PM

Proposal Due Date: Jan 30, 2023, 5:00 PM

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NOTICE TO OFFERORS

SUBJECT: RFP No. 0000009173

The Washington Metropolitan Area Transit Authority (WMATA) requires the services of a qualified contractor to procure legal services from qualified law firms in five practice areas: 1) Business, Finance, and Regulatory Compliance; (2) Labor and Employment; (3) Procurement and Government Contracts; (4) Real Estate and Land Use; and (5) Complex Litigation, Appeals, and Government Investigations. Each of these practice areas is described in more detail below.

NOTE:

This RFP [] Does [x] Does Not include Minority Business Enterprise (MBE) requirements.

This RFP [] Is [x] Is Not being issued as a Small/Micro Business set aside for response from small certified businesses only.

If you have any technical, contractual, or administrative questions, please e-mail them to smarks@wmata.com no later than the Close of Business, **January 16, 2023, at 5:00 pm**. If an amendment(s) is issued resulting from questions and answers, it will be posted on the WMATA Supplier Portal. Please adhere to the question deadline for proposing any questions. All questions must be in writing and may be responded to through amendment(s).

Your proposal must be received with all required submittals as stated below in the RFP no later than **5:00 PM, Jan 30, 2023**.

IN ORDER TO ENSURE THAT YOUR PROPOSAL COMPLIES WITH THE AUTHORITY'S PROCUREMENT PROCEDURES AND THAT IT WILL BE ACCEPTABLE TO THE AUTHORITY, THE FOLLOWING FORMS MUST BE COMPLETED, SIGNED (IF INDICATED) & SUBMITTED AS SPECIFIED BELOW WITH YOUR PROPOSAL:

PROPOSAL FORMAT INSTRUCTIONS/REQUIREMENTS --

s

- ✓ PRICE SCHEDULE- **VOLUME I**
- ✓ TECHNICAL PROPOSAL- **VOLUME II**
- ✓ SOLICITATION, OFFER & AWARD FORM - **VOLUME III**
- ✓ REPRESENTATIONS AND CERTIFICATIONS- **VOLUME III**
- ✓ PRE-AWARD EVALUATION DATA- **VOLUME III**
- ✓ ACKNOWLEDGMENT OF AMENDMENTS (IF ANY)- **VOLUME III**
- ✓ PROOF OF INSURANCE ELIGIBILITY - **VOLUME III**
- ✓ APPENDIX B-2 (IF APPLICABLE) - **VOLUME III**

NOTE: Please ensure you upload your proposals under the correct Volume and identify the corresponding title using the drop-down arrow on the WMATA Supplier Portal.

Please provide a name and email address of the Point of Contact for your proposal in case the Contract Administrator has any questions.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SOLICITATION, OFFER AND AWARD

SOLICITATION		
SOLICITATION ID: 0000009173 CONTRACT ID: CCOUN233261	SOLICITATION TYPE: RFP	Date Issued: December 30, 2022 at 12:00 AM
ISSUED BY: Tamara J Roberts, Contracting Officer Sieaun Marks, Contract Administrator	ADDRESS: Washington Metropolitan Area Transit Authority Office of Procurement and Materials 300 7th Street, SW 5th Floor Washington, DC 20024	CONTACT INFORMATION: Sieaun Marks Contract Administrator, at smarks@wmata.com (email) and (phone).

All proposals are subject to the following:

1. The Solicitation Instructions that are attached.
2. The Special and Standard Terms and Conditions that are attached.
3. The Price Schedule.
4. Such other provisions, representations, certifications, and specifications as are attached or incorporated herein by reference.

OFFEROR	
Name and Address (Street, City, County, State, and zip code)	Email Address
	Phone Number
	DUN & BRADSTREET ID Number
<input type="checkbox"/> Check if remittance is different from above -- enter such address in Schedule	
Name and Title of Person Authorized to Sign Offer (Print or Type)	
Signature	Offer Date

AWARD (To be completed by WMATA)

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

ITEM NO.	QUANTITY	UNIT	UNIT PRICE

Name of Contracting Officer (Print or Type)

SIGNATURE

AWARD DATE

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SOLICITATION, OFFER AND AWARD

CONTINUATION SHEET

THE UNDERSIGNED ACKNOWLEDGES RECEIPT OF THE FOLLOWING AMENDMENTS

TO SOLICITATION **RFP# 0000009173**

Amendment Number _____ Dated _____

Amendment Number _____ Dated _____

Amendment Number _____ Dated _____

Amendment Number _____ Dated _____

Amendment Number _____ Dated _____

Amendment Number _____ Dated _____

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

Authorized Signature

Company Name

Date

SOLICITATION INSTRUCTIONS

1. COMMON TERMINOLOGY

The Washington Metropolitan Area Transit Authority (WMATA) shall use electronic commerce whenever practicable or cost-effective. The use of terms commonly associated with paper transactions (e.g., "copy," "document," "page," "printed," "sealed envelope," and "stamped") shall not be interpreted to restrict the use of electronic commerce. Where necessary, Contracting Officers may also supplement the electronic transactions by using other media of transmission to meet the requirements of any contract action governed by these procedures (e.g., correspondence by email, or to transmit hard copy of drawings). The term 'solicitation' shall refer to this Request for Proposals (RFP).

2. SUBMITTING ELECTRONIC PROPOSALS

- a.** Electronic proposals submitted through the WMATA Supplier Portal are required during the open solicitation period. It is important to pay special attention to the solicitation requirements for submitting your proposal. Proposals will not be permitted after the stated solicitation closing time.
- b.** All proposals will be submitted in a format that identifies the specific solicitation number and title. All formats are accepted except for ZIP, EXE, DLL and XLSM.
- c.** The electronic proposal must contain Offeror's full name, address, phone number, and e-mail address.
- d.** Offerors will be unable to submit a proposal, regardless of format, after the established deadline for the solicitation has passed. Please be sure to verify the proposal deadline and review all amendments.
- e.** When proposals are submitted electronically, the Office of Procurement & Materials (PRMT) will be notified automatically by a system-generated e-mail, immediately upon receipt. This e-mail will be anonymous so as not to identify the vendor.
- f.** Notices sent out from the electronic solicitation system will be sent to the Offerors' designated e-mail addresses. However, each Offeror is responsible for viewing the most current updates and amendments posted on WMATA's Procurement Opportunities

webpage. To ensure that all such notices are received, you must make sure that your profile email addresses are up to date.

- g.** All proposals will be electronically dated, and time stamped upon receipt by the system currently in use by WMATA.
- h.** Submitted proposals will remain unopened by WMATA until the scheduled proposal due date and time.
- i.** WMATA will not be responsible for any delay of delivery, including delays related to e-mail programs, servers, or acts of nature.
- j.** If you have questions concerning the e-procurement process, contact our Procurement IT Team at prmt_suppliersupport@wmata.com. Also include the assigned Contract Administrator, whose name and contact information are included in the solicitation.
- k.** Costs incurred for developing proposals in anticipation of award are the responsibility of Offeror and shall not be charged to WMATA.

3. PROPOSAL FORMAT

- a.** Electronic proposals shall be divided into 3 volumes. All volumes shall have the RFP number, the proposer's identity, volume number, and volume title printed on a cover page. Volumes shall be individually uploaded in the following order:
 - i)** Volume I -- Cost/Price -- consists of the Offeror's cost/price proposal
 - ii)** Volume II -- Technical -- consists of Offeror's technical proposal in compliance with the SOW. (Shall not include cost/price information)
 - iii)** Volume III -- Contractual -- consists of signed solicitation documents to include Representations, Certifications, Pre-Award Data Form, Certificate(s) of Insurance and any other signed contractual documents.
- b.** Cost/Price. All information relating to cost or pricing data must be included in Volume I. Under no circumstances shall cost or pricing data be included elsewhere in the proposal.
- c.** Technical Proposal. The technical proposal should address the stated Evaluation Criteria in such a manner as to enable the Authority to engage in a thorough evaluation of its overall technical merit. Technical proposals shall be specific, detailed and complete and shall demonstrate that the Offeror has a thorough knowledge and understanding of the Contract's requirements. Offerors shall avoid generalized statements that for example, paraphrase the specifications or attest that "standard procedures will be employed." The Authority wishes to be satisfied that the Offeror maintains an understanding of the specific Contract requirements and maintains the means to fully satisfy them.
- d.** Contractual. The Contractual volume shall contain a completed, signed Solicitation, Offer and Award Form and include Representations, Certifications, Pre-Award Data Form, Certificate(s) of Insurance, and acknowledgement of any amendments.
- e.** In the event that the Offeror takes any exception to any of the Contract's terms and conditions, wishes to propose alternative Contract language or is otherwise unwilling or unable to satisfy any of the Contract's requirements such information should be clearly

noted on the first page(s) of Volume III of the proposal. Failure to take exception shall constitute the Offeror's acceptance.

- f. However, If Offeror takes exceptions to WMATA's terms and conditions, or any other requirement(s) of this RFP, the Offeror should be aware that the Contracting Officer may deem Offeror's proposal unacceptable, at his or her discretion.

4. INTRODUCTIONS

This solicitation is intended to seek proposals from qualified firms who can satisfy the requirements in order to award a contract to perform services and/or provide the supplies as described in the Statement of Work (SOW). Since this is a Best Value solicitation, award of a Contract hereunder shall be to the offeror whose proposal provides the best overall value to the Authority, based upon application of the evaluation criteria set forth in herein.

The Authority contemplates award of a firm fixed price] contract. Unless otherwise specified in the Price Schedule, the Authority reserves the right to make multiple awards pursuant to this solicitation.

5. GOODS TO BE FURNISHED/SERVICES TO BE SUPPLIED

In preparing proposals, Offerors are advised that:

- a. If "services" are to be performed pursuant to this solicitation, they must be provided in all respects as specified in the Contract and include the services to be furnished, together with any labor, materials or other work necessary for satisfactory and complete performance.
- b. If "supplies" are to be provided pursuant to this solicitation, they must be delivered in all respects as specified in the Contract and include the items to be furnished, together with any labor, service or other work necessary for satisfactory and complete performance.

6. PREPARATION OF OFFERS

- a. Offerors shall furnish all information requested by the solicitation and, in so doing, are expected to examine the solicitation and all referenced documents carefully. Failure to do so will be at the Offeror's risk.
- b. Offeror shall sign the Solicitation, Offer and Award form and print or type its name on the Price Schedule and on each continuation sheet, if an entry has been made. Erasures or other changes must be initialed by the person signing the proposal.
- c. In preparing the proposal, the Offeror should be aware that all prices for the work shall be deemed to include the cost of all work, labor and materials required by the Contract including, without limitation, delivery charges, insurance, container charges or other expenses bond premiums or any other expenses incidental to the work, including, authorized travel expenses, as well as expenses for compliance with Federal, state or local laws or regulatory requirements. WMATA does not pay for travel within the Metro transit zone (DC, MD and VA). Travel costs may only be included if authorized by the Statement of Work (SOW). All prices are deemed to be Free on Board (F.O.B.) Destination.

7. EXPLANATIONS TO OFFERORS

- a. Any explanation desired by an Offeror regarding the meaning or interpretation of the solicitation or Contract including, without limitation, the terms and conditions, technical specifications or Scope of Work, and Contract drawings, must be requested in writing with sufficient time allowed for a reply to reach all Offerors before the proposal due date. Absent

extraordinary circumstances, all inquiries must be transmitted in a time frame to ensure the Contracting Officer's receipt at least ten (10) days prior to the date specified for proposal due date. All such requests must be submitted via e-mail to the Contract Administrator. Include the solicitation number and Contract title in any correspondence.

- b. Any information that WMATA furnishes to a prospective Offeror relating to this solicitation will be provided in writing to all prospective Offerors in the form of an amendment if, in the Contracting Officer's judgment, the information is necessary to the preparation and/or submittal of offers, or lack of such information would be otherwise prejudicial to other prospective Offerors.
- c. Oral explanations, representations or instructions of any kind relating to the subject matter of this solicitation given at any time before award of the Contract by any employee, officer or agent of WMATA, will not be binding upon WMATA. WMATA does not assume responsibility for the accuracy of any such communication.
- d. The failure of a prospective Offeror to request an explanation will serve to preclude it from claiming any ambiguity, inconsistency or error that should have been discovered by a reasonably prudent Offeror.

8. AMENDMENTS PRIOR TO DATE SET FOR RECEIPT OF PROPOSALS

- a. WMATA reserves the right to amend any of the terms of this solicitation or the Contract prior proposal due date. Copies of any such amendments will be furnished via email to all prospective Offerors.
- b. If, in the Contracting Officer's judgment, any amendment(s) would require material changes to price proposals and/or other substantive element(s) of the proposal, the proposal due date may be postponed for such period as, in the Contracting Officer's opinion, will enable Offerors to revise their proposals. In such instances, the amendment will include an announcement of the new proposal due date.
- c. In the event of an amendment, all other terms and conditions of the solicitation shall remain unchanged.

9. ACKNOWLEDGMENT OF AMENDMENTS

Offerors are required to acknowledge receipt of all amendment(s) to the solicitation on the designated form to be submitted with their proposals. Failure to do so may, at the Contracting Officer's discretion jeopardize the offeror's right to have its proposal reviewed by the Authority.

10. WITHDRAWAL OF PROPOSALS

Proposals may be withdrawn via email to the Contract Administrator, if received prior to the due date for proposals. WMATA reserves the right to accept any proposal in its possession as of the due date. Proposals may not be withdrawn 120 days after the proposal due date without the Contracting Officer's written approval.

11. RECEIPT AND REVIEW OF OFFERS BY WMATA

- a. There will be no public opening of offers for this solicitation. Offers will be opened by the designated WMATA representative. All reasonable efforts will be made to ensure

confidentiality of the information contained in the offers, consistent with applicable provisions of law.

- b. WMATA may award a Contract on the basis of the initial offers as evaluated in accordance with the Evaluation Criteria, without discussions. Accordingly, the initial offer should contain Offeror's best terms from both a price and technical standpoint.
- c. The Contracting Officer may, in his or her discretion engage in oral or written clarifications with one or more offerors regarding the Authority's understanding of the proposals. In order to engage in discussions, the Contracting Officer shall first make a determination regarding the initial proposals that he or she deems to be within the competitive range for Contract award. The Contracting Officer shall conduct discussions with all offerors submitting proposals that are within the competitive range.
- d. The "competitive range" is defined as a group of those proposals determined during the RFP evaluation process to have a reasonable chance of being selected for award based on cost/price and other factors stated in the Evaluation Criteria in the Special Terms and Conditions. Offerors who submit these proposals are chosen for additional discussions and negotiations. Only the most highly rated offers, with a reasonable chance of award will be admitted into the competitive range. The Contracting Officer will notify those Offerors eliminated from the competitive range. The Contracting Officer may provide a debriefing to any unsuccessful Offeror that submits a written request for a debriefing.
- e. The Contracting Officer may, in his or her discretion engage in oral or written discussions. If discussions will occur, the Contracting Officer shall conduct meaningful discussions with all Offerors that are within the competitive range.
- f. The Contracting Officer may, following such discussions, direct those Offerors remaining within the competitive range to submit revised proposals and/or Best and Final Offers ("BAFOs"). In such instances, the Contracting Officer shall award the Contract based upon his or her review of the BAFOs in accordance with the Evaluation Criteria contained in the Special Terms and Conditions. Nothing contained herein shall limit, modify or impair the Contracting Officer's right to engage in any additional oral or written discussions or other communications relating to the solicitation that may, be consistent with the Authority's best interests.
- g. WMATA maintains the right to waive minor informalities and irregularities at any time during the solicitation process.

12. PRICE PROPOSAL EVALUATION

- a. The Contracting Officer will evaluate proposals for reasonableness, completeness, and realism as appropriate. Costs will be evaluated in terms of the following:
 - i) Submittal of proposed prices for both the base year(s) and the option year(s), if any;
 - ii) Any offer that is materially unbalanced may be rejected. An unbalanced offer is one that is based on prices that are significantly overstated for some items and understated for other items;
 - iii) The Contracting Officer will compare the offers to WMATA's estimate and otherwise determine reasonableness by performing a price analysis, if adequate competition exists. If, in the Contracting Officer's judgment, adequate price

competition does not exist, he or she will conduct a cost analysis in order to ascertain whether the proposed price is fair and reasonable;

- b. Offeror shall provide certified cost or pricing data if the Contracting Officer requests it.

13. TECHNICAL PROPOSAL EVALUATION

FOR BEST VALUE RFPs:

- a. WMATA will evaluate technical proposals in accordance with the "Evaluation Criteria and Basis For Award" under the Special Terms and Conditions and render an assessment as to the overall technical merit of the proposal. The proposals failure to demonstrate that it meets or surpasses an acceptable level with respect to any such element may result in a determination that the proposal is unacceptable and thus ineligible for award.

14. PROPOSAL MISTAKE

- a. An Offeror who seeks to withdraw its proposal subsequent to solicitation closing due to a claimed mistake or error in its preparation shall notify the Contracting Officer, in writing, immediately upon realizing the mistake. Such notification must set forth the details of, and explanation for, the claimed mistake. The Contracting Officer shall evaluate the claimed mistake and determine whether Offeror will be permitted to withdraw its proposal.
- b. In the event of an apparent discrepancy between any unit price and its associated extended price, the unit price will be presumed to be correct. The Contracting Officer may award a Contract to a successful Offeror based upon the unit price, subject to the additional terms of this clause.
- c. An Offeror claiming a mistake shall, at the Contracting Officer's request, appear before the Contracting Officer to provide testimony and/or documentation that may include Offeror's computation sheets and calculations, to assist in WMATA's determination.
- d. Nothing contained herein shall preclude the Contracting Officer from allowing an Offeror to cure a deficiency in an otherwise acceptable proposal where he or she determines that such deficiency is in the nature of a minor informality or irregularity.

15. PRE-AWARD INFORMATION/CONTRACTOR RESPONSIBILITY

- a. In order to be eligible for award of a Contract, an Offeror must affirmatively demonstrate to the Contracting Officer's satisfaction that it is responsible for purposes of contract award. Such demonstration must include a showing that it maintains the requisite integrity, overall technical expertise and experience, (including prior performance on other WMATA contracts or contracts with other agencies/authorities), and sufficient financial resources to perform the Contract in a timely, satisfactory and appropriate manner. Failure to demonstrate responsibility may result in rejection of Offeror as non-responsible.
- b. The Contracting Officer may conduct a pre-award survey and/or take other actions to obtain information regarding the Offeror's responsibility. The offeror shall promptly supply

information that the Contracting Officer requests regarding its responsibility, in such manner and form as he or she requests.

- c. Among other items, the Contracting Officer shall review the following:
 - i) A completed and signed "Pre-Award Evaluation Data" form (copy attached), including all referenced financial statements and information; and
 - ii) Evidence that the Offeror is not suspended, debarred, proposed for debarment or otherwise excluded from receiving Federal awards in the System for Award Management (SAM) at www.sam.gov.
 - iii) Evidence that the Offeror's past performance on contracts with WMATA or other authorities/ agencies. was acceptable.
- d. The Offeror's failure to supply this information or otherwise fully cooperate with WMATA's inquiry may result in a determination that the offeror is not responsible for purposes of this solicitation and thereby ineligible for award.

16. REQUIREMENT FOR COST DATA FOR CONTRACT AWARD

WMATA may require the successful Offeror to submit cost data in sufficient detail to permit analysis of the cost elements which make up the proposal prices. In such instances, the successful Offeror may, at the discretion of WMATA, be subject to audit.

17. PRE-AWARD MEETING

WMATA reserves the right to require that a pre-award meeting be held with the successful Offeror prior to Contract award to review Offeror's understanding of the Contract's requirements and/or further assist WMATA in determining Offeror's responsibility for purposes of award. The Contractor shall be represented at such meeting by individual(s) fully familiar with the Contractual requirements including, representative(s) of one or more major subcontractor(s), if the Contracting Officer requests it.

18. RESTRICTION ON DISCLOSURE AND USE OF DATA

WMATA shall provide all reasonable precautions to ensure that proprietary, technical and pricing information remains within the review process. Offerors shall attach to any proprietary data submitted with the offer the following legend:

- a. "The data furnished pursuant to this solicitation shall not be disclosed outside WMATA, be duplicated, or used, in whole or in part, for any purpose other than to evaluate the offer. If a Contract is awarded on the basis of this offer, WMATA shall have the right to duplicate, use, and disclose this data, in any manner and for any purpose consistent with the execution of the Contract.
- b. This legend does not limit WMATA's right to use information contained in this data if WMATA obtains it from another independent, legitimate source.
- c. Except for the foregoing limitations, WMATA, it's officers, directors, employees or its agents may duplicate, use, and disclose in any manner and for any purpose whatsoever, all data furnished in response for this solicitation.

19. ENGLISH AND UNITED STATES CURRENCY

With respect to both this solicitation and the resultant Contract:

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

20. EQUAL EMPLOYMENT OPPORTUNITY

In order to be eligible for award of a Contract pursuant to this solicitation, Offeror will be required to comply with all applicable Equal Employment Opportunity laws and regulations.

21. REQUEST FOR RECORD

WMATA regularly receives requests for records from the public. It is WMATA's policy to make official agency records, including electronic records, available to the public, unless specifically prohibited by WMATA's Public Access to Records Policy (PARP) or applicable laws.

- a. "Records" means any existing writings, drawings, maps, recordings, tapes, film, microfilm, correspondence, forms, cards, photographs, optical disks, photocopies, and records stored by computer (electronic records) that are made or received by WMATA in connection with a public contract. A record does not include uncirculated personal notes, papers, electronic records and any other records that were created and retained solely as work papers for personal use of the Contracting Officer, Contract Administrator or other WMATA employee or agent.
- b. After award of this Contract, WMATA may release and/or post the name of the successful Offeror and the amount of the award in the ordinary course of business. This information is available on WMATA's website under "Business with Metro" or directly from the Contract Administrator pursuant to a PARP request.
- c. Upon WMATA's request, the successful Offeror shall provide WMATA with redacted copies of its technical and price proposals with confidential and proprietary information redacted. Redactions shall be made only to those portions or pages of the proposal that the successful Offeror claims are confidential. By identifying portions or pages of the proposal as confidential, the successful Offeror warrants that it customarily and actually treats the identified portions or pages as confidential. If the successful Offeror's proposal is responsive to a PARP request, WMATA will require Offeror to sign a statement affirming that Offeror customarily and actually treats as confidential all information redacted by Offeror. If any of Offeror's redactions are challenged through a PARP appeal or otherwise, the Offeror shall assist WMATA in defense of its redactions and reimburse WMATA for any and all damages, liabilities, fees, and other costs incurred by WMATA in defense of Offeror's redactions.
- d. Requests for Records that are not made available during the procurement or debriefing process will be submitted in accordance with the PARP. Requests must be in writing and sent by mail to the PARP Administrator, Office of General Counsel 7E, Washington Metropolitan Area Transit Authority P.O. Box 44390 Washington, D.C. 20026-4390, or by electronic mail at parp@wmata.com or by facsimile to the attention of the PARP Administrator at (202) 962-2550. If a request for records is sent directly to a Contract Administrator, department, or independent office, that entity shall immediately forward the request to the PARP Administrator in the Office of General Counsel. If records are subject to a PARP request, a member of the PARP team will contact the company to begin the PARP document review process, which includes providing detailed written justifications for any information for which exemptions are claimed.
- e. Neither WMATA's proposal/debriefing process nor the PARP process generally allow for the release of information that would cause competitive harm to the proposers, other

organizations, WMATA's employees, or interests. Information that will be withheld includes the following:

- i)** The names of unsuccessful Offerors;
 - ii)** The technical and price proposals of unsuccessful Offerors;
 - iii)** Personal information (this does not include education and qualifications which are released) about the successful Offeror or its employees that is not available to the public on the website of the successful Offeror;
 - iv)** WMATA's technical evaluation of any proposals submitted to WMATA pursuant to a solicitation;
 - v)** The names of the vendors who file a protest to the solicitation or its award;
 - vi)** The written adjudication of any protests;
 - vii)** Personal information concerning WMATA's employees;
 - viii)** Trade secrets and confidential commercial or financial information obtained from an offeror; and
 - ix)** Unit price details of the successful price proposal (this does not include the bottom line price, which is released);
- f.** If your company's records are subject to a PARP request (i.e., if it is the successful offeror), a broad claim of confidentiality for the entire proposal or pages of the proposal is rarely acceptable and will likely be rejected during the PARP process. Therefore, WMATA

suggests that you narrowly identify your confidential/proprietary information based on the following guidance

- g.** Information that may be withheld/redacted:
 - i)** Detailed pricing except bottom line offer amounts;
 - ii)** Trade secrets;
 - iii)** Unique proprietary solutions not publicly known;
 - iv)** Employee/personnel names below the executive level; however, information regarding qualifications of employees is released; and
 - v)** Subcontractor/vendor identities, if not publicly known.
- h.** Public information subject to release:
 - i)** Any information on your company's website;
 - ii)** Publicly known information (even if not on your company's website);
 - iii)** General company background;
 - iv)** Mere compliance with RFP requirements; and
 - v)** Anything standard to the industry.

22. NOTICE OF PROTEST POLICY

- a.** WMATA's procedure for the administrative resolution of protests is set forth in Chapter 17 of WMATA's Office of Procurement & Materials Best Practices Manual (BPM). The procedures contain strict rules for filing a timely protest, for responding to a notice that a protest has been filed, and other procedural matters.
- b.** The basis on which FTA will review a grantee's protest decision is defined in Chapter 17 of the BPM and in FTA Circular 4220.1F as may be updated from time to time. FTA will generally exercise discretionary jurisdiction over cases deemed to involve issues important to the overall third-party contracting program. FTA's decision to decline jurisdiction over a protest does not imply approval of or agreement with the Authority's decision or that FTA has determined that this Contract is eligible for Federal participation.
- c.** Alleged violation must be submitted to the Contracting Officer who will administratively decide the protest.
- d.** Nothing contained herein or in the FTA Circular shall be construed to define WMATA as a federal agency. Legal action, if permitted, contesting WMATA's decisions is governed by the Washington Metropolitan Area Transit Authority Compact, Pub. L. No. 89--774, 80 Stat. 1324 (1966), as amended. Nothing herein shall be construed as a waiver of any of WMATA's immunities from suit.

23. WMATA'S TAX EXEMPT STATUS

- a.** Pursuant to Section 78 of WMATA's Compact, as adopted by the District of Columbia (D.C. Official Code § 9-1107.01 et seq.), the State of Maryland (Md. Transportation Code §10-

204), and the Commonwealth of Virginia (Code of Virginia § 33.2-3100 et seq.) and consented to by the U.S. Congress in Pub. L. 89-774, 80 Stat. 1324 as amended, WMATA has been accorded exemption from taxes as follows: "WMATA and the Board shall not be required to pay taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision, or upon its activities in the operation and maintenance of any transit facility or upon any revenues therefrom, and the property and income derived therefrom shall be exempted from all Federal, State, District of Columbia, municipal, and local taxation. This exemption shall include without limitation, all motor vehicle license fees, sales taxes and motor fuel taxes."

- b.** WMATA shall not be required to pay late charges, fines or any form of pre-judgment interest.
- c.** By submitting the proposal, Offeror certifies that none of the taxes that WMATA is exempt from are included in its proposal.
- d.** WMATA shall not be responsible for social security taxes, other employment taxes, income tax, gross receipts taxes or franchise taxes imposed on the Contractor.
- e.** The Contractor shall notify the Contracting Officer within in 30 days of discovery, (or within 30 days of when an event should have been discovered), of matters that may have resulted in an over charge to WMATA because of inclusion of taxes in the Contract price from which WMATA is exempt under this clause and shall take action as the Contracting Officer directs. WMATA shall be entitled to a reduction in the Contract price reflecting such amount and a refund of monies paid related to such taxes, plus applicable interest.

PRE-AWARD EVALUATION DATA

PROJECT DESCRIPTION: _____

1. Name of firm _____
2. Address: _____
3. Individual Partnership Corporation Joint Venture
4. Date organized _____
State where incorporated or organized _____
5. Names of officers or partners:
 - a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____
 - f. _____
6. How long has your firm been in business under its present name?
7. Attach as Schedule One (1) a list of similar current contracts that demonstrate your firm's technical proficiency, each with contract amount, name of contracting party, character or type of work and percentage of completion.
8. Attach as Schedule Two (2) a list of similar contracts, each with contract amount, name of contracting party, and character or type of work for similar contracts completed in the last two (2) years.
9. In the last two (2) years has your firm been denied an award where it was the successful Offeror? If the answer is yes, attach as Schedule Three (3) the full particulars regarding each occurrence.
10. Has your firm failed to complete, in the last two (2) years, any contract on which it was the successful Offeror? If the answer is yes, attach as Schedule Four (4), the full particulars regarding each occurrence.
11. Financial resources available as working capital for the Contract:
 - a. Cash on hand: \$ _____
 - b. Sources of credit: _____
12. Attach as Schedule Five (5) previous two years of financial statements and letters from banks regarding credit as required by "Pre-Award Information" clause..
13. What percentage of work (Contract amount) does your firm intend performing with its own personnel?
14. Attach as Schedule Six (6), a list of all principal subcontractors and the percentage and character of work (Contract amount) that each will perform. Principal items of work shall include, but not be limited to, those items listed in the "Pre-Award Information" clause.

15. If the Contractor or subcontractor is in a joint venture, submit "Pre-Award Evaluation Data" forms for each member of the joint venture.

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

The undersigned certifies to the accuracy of all information.

COMPANY: _____

SIGNATURE: _____

NAME: _____

TITLE: _____

DATE: _____

**TECHNICAL SPECIFICATIONS -- SCOPE OF
WORK**

Introduction

The Washington Metropolitan Area Transit Authority ("WMATA") is seeking to procure legal services from qualified law firms in five practice areas: 1) Business, Finance, and Regulatory Compliance; (2) Labor and Employment; (3) Procurement and Government Contracts; (4) Real Estate and Land Use; and (5) Complex Litigation, Appeals, and Government Investigations. Each of these practice areas is described in more detail below.

Purpose

From time to time, WMATA's Legal Department requires the use of outside counsel to assist its attorneys in complex litigation and transactions, provide specialized advice, and offer guidance in complying with regulatory and federal and local government requirements.

WMATA intends to award multiple task order contracts to qualified outside law firms for each of the five practice areas, resulting in an available panel of firms whose expertise can be procured via task/delivery order on an as-needed basis. Awards may be made to a particular firm for one or more of the five practice areas, depending on a firm's demonstrated ability to meet the RFP requirements. Task/delivery orders will be assigned or competed at the sole discretion and direction of the Legal Department on a case-by-case basis.

Note: An award does not guarantee any work being assigned to a particular firm.

Offerors are required to submit separate technical responses for each Practice Area. Offerors may propose on one or several Practice Areas, and/or may choose to respond on all five Practice Areas. **Your proposal must indicate whether your firm is seeking award for all five Practice Areas, or only specific areas. In addition, your proposal must indicate by letter each sub areas in which your firm is qualified to provide legal services.**

Scope of Work

The five practice areas for which proposals are being solicited are:

Practice Area 1: Business, Finance, and Regulatory Compliance

Offerors responding to Practice Area 1 must be able to provide legal services regarding Business, Finance, and/or Regulatory Compliance matters.

An offeror must have recent and extensive experience in one or more of the following sub area(s):

- A. Development of public-private partnerships.
- B. Bankruptcy matters where WMATA is a creditor.
- C. Public financing, including tax increment financing, tax advantaged transactions and the issuance of financing instruments such as bonds, notes, credit facilities, and other forms of debt issuance.
- D. The negotiation of various forms of business agreements, which may include operating agreements and joint venture agreements, outsourcing and privatization (but not including real estate and joint development agreements) and various debt offerings.
- E. Intellectual property protection and disputes.
- F. Regulated Utilities: including, but not limited to, presenting rate cases before and working with the DC and MD public service commissions and the VA State Corporation Commission.
- G. Telecommunications: including, but not limited to, knowledge of the various regulatory regimes that govern the provision of broadcast radio and television, cable television, wireline telephone, broadband Internet, wireless, satellite and all other types of telecommunications service.

- H. Federal Transit Administration (“FTA”) oversight in the areas of safety oversight (including familiarity with analogous federal safety oversight of other industries); Transit Asset Management; Grants Management; as well as state safety oversight agencies and their regulations.
- I. Administrative law procedures: including formal and informal dispute of proposed regulatory fines and penalties and commenting on proposed federal regulations and legislation.
- J. Rendering advice and opinions and undertaking negotiations or litigation within this subject matter.

Note: The Contracting Officer’s Technical Representative (COTR) or Contracting Officer (CO) may request awarded contractor(s) to perform other tasks within the subject areas.

Practice Area 2: Labor and Employment

Offerors responding to Practice Area 2 must be able to provide legal services for some or all types of claims arising in this broad practice area, including legal advice and guidance; negotiations; pre-trial; trial; and appeal. These services may include, among others, all legal services needed to supplement WMATA’s Legal Department in providing advice and counsel on compliance, enforcement, negotiation, and the prosecution and defense of Labor and Employment law matters. These matters may arise in any jurisdiction in which WMATA provides transit services. There may be overlap between WMATA’s Complex Litigation panel (as described below) and this Labor and Employment law panel.

An offeror must have recent and extensive experience in one or more of the following sub area(s):

- A. Subject matter expertise on various Labor and Employment Law topics, for example: Title VI, Title VII, ADA, ADEA, EPA, GINA, FMLA, retaliation claims, EEOC sub-regulatory guidance and commission decisions, and applicable FTA guidance.
- B. Board of Directors and Employee Ethics and nepotism, Personnel Actions and Practices, Employment Handbook development, Wage & Hour matters (e.g., Fair Labor Standards Act), NTSSA whistleblower retaliation matters, and Workplace Data and Other Security matters.
- C. Be able to advise on and litigate, matters raised under Act §13(c) agreements with labor unions, the FTA, and related Federal Transit documents.
- D. Defending and advising on all types of whistleblower matters.
- E. Subject matter expertise in training employees on specific provisions within equal employment opportunity statutes and regulations (e.g., anti-retaliation provisions of Title VII).
- F. Subject matter expertise in drafting policies and procedures related to Labor and Employment law, such as those related to FLSA and Title VII.
- G. Render opinions as requested concerning a variety of labor law issues, for example: FLSA and pay equity.
- H. Render opinions on and defend represented employee grievances and provide support for appeals in administrative and judicial forums pursuant to WMATA’s Collective Bargaining Agreements and other applicable labor laws. For WMATA represented employee grievance matters, appeals, and arbitrations, there are four different tiers of complexity: Tier 1 - Simple discipline (not discharge) or the procedural portion of a bifurcated case – Untimely, duplicate filed, etc. Tier 2 – Discharge or complex discipline; Tier 3 – Contract interpretation or complex case, multiple discharges (layoffs, etc.); and Tier 4 – Interest arbitration or complex question arbitration.
- I. Render opinions as requested concerning a variety of human resources matters, for example: hiring, background checks, leave and absenteeism, severance, at-

will employment standards, reduction in force, abolishment of positions and department realignment, position evaluation, categories of employment, and employee compensation and benefits.

J. Render opinions as requested concerning a variety of immigration matters, for example: the recruitment and sponsorship of foreign nationals requiring H-1B or permanent sponsorship.

K. Review for form and legal sufficiency documents submitted to the WMATA Board of Directors as a part of the services provided under this section of the Scope of Work. Documents submitted to the WMATA Board of Directors include, for example, Board resolutions and motions, and WMATA Office of Inspector General reports and audits.

L. Litigating labor, employment, or immigration matters and, where litigation has already commenced or is being handled by WMATA staff, provide advice as to the appropriate resolution of any such litigation.

M. Claims and other workplace issues relating to the COVID-19 pandemic.

Note: The COTR or CO may request awarded contractor(s) to perform other tasks within the subject areas.

Practice Area 3: Procurement and Government Contracts

Offerors responding to Practice Area 3 must be able to provide legal services on some or all manner of claims and other issues arising in this broad practice area, including legal advice and guidance; negotiations; pre-trial; trial; and appeal. These matters may arise in any jurisdiction in which WMATA provides transit services.

An offeror must have recent and extensive experience in one or more of the following sub areas:

A. Procurements of products and services and in all phases of the design/build construction process, including the procurement of such services, with an emphasis on public sector/governmental projects and processes.

B. Negotiate or assist in the negotiation of WMATA procurement contracts, change orders, and other documents used in contracting with WMATA vendors.

C. Negotiate, prosecute, or defend, or assist in those processes for WMATA terminations, claims, and other management of WMATA contracts.

D. Draft legal documents necessary for the consummation of any transaction undertaken through the WMATA procurement process, such as novation agreements and specialized IT procurement.

E. Litigate contract claims and procurement issues before courts and administrative bodies and provide advice as to the appropriate resolution of any such dispute.

F. Render opinions as requested concerning a variety of concerns relating to the procurement and construction of infrastructure and other projects.

G. Provide support, including litigation support, for latent defects and other disputes arising out of WMATA's use of a vendor's products or services.

H. Assist with training, staff augmentation, advice and counsel regarding compliance with WMATA's procurement procedures; federally-imposed procurement rules and regulations; and WMATA's implementation and compliance with all such rules and regulations.

I. Review for form and legal sufficiency documents developed by or submitted to WMATA as a part of the procurement or government contract process, such as software licensing and other complex agreements.

Note: The COTR or CO may request awarded contractor(s) to perform other tasks involving WMATA procurement management and government contracts.

Practice Area 4: Real Estate and Land Use

Offerors responding to Practice Area 4 must be able to provide legal services on some or all of the following matters arising in this broad practice area, primarily including negotiations. These matters may arise in any jurisdiction in which WMATA provides transit services but an offeror does not need to have expertise in each jurisdiction in order to make an offer; this is particularly applicable to land use services but may be applicable to other areas as well. If an offeror's expertise is limited to a specific jurisdiction(s) within WMATA's service area, the offeror should so specify.-

An offeror must have recent and extensive experience in one or more of the following sub areas:

- A. Public/private commercial real estate development (called "joint development" in transit agency parlance), whether on behalf of the private sector or in the representation of the public sector.-
- B. Commercial real estate leasing for office and retail use, on behalf of landlords and/or tenants.
- C. Negotiation of other real estate transactions including, but not limited to, sales, purchases, and easements.
- D. Questions of title and other development concerns.-
- E. Environmental compliance and liability.
- F. Land use and zoning matters in the District of Columbia, and the counties and cities of Maryland and Virginia served by WMATA.
- G. Drafting legal documents, and reviewing and editing legal documents prepared by others, necessary for the consummation of any transaction covered in this section of the Scope of Work.-

Note: The COTR or CO may request the awarded contractor(s) to perform other tasks within the real estate area.

WMATA is aware that many firms providing the services listed above more frequently represent private parties than governmental agencies. The representation of private parties in real estate matters is not a disqualifier. To the contrary, the knowledge of commercial real estate practices gained in non-governmental transactions is of great value to WMATA.

Practice Area 5: Complex Litigation, Appeals, and Governmental Investigations

Offerors responding to Practice Area 5 must be able to provide legal services on some or all types of claims arising in this broad practice area, including legal advice and guidance; negotiations; pre-trial; trial; and appeal. These matters may arise in any jurisdiction in which WMATA provides transit services.

An offeror must have recent and extensive experience in one or more of the following sub areas:

- A. As requested, advise, and litigate complex matters from pre-litigation through final resolution. Potential litigation may include, but not be limited to:
 - (1) All forms of civil rights actions, including First Amendment cases (including public and non-public forum cases).
 - (2) Non-procurement agreements.
 - (3) Personal injury/tort matters where the ad damnum is greater than \$75,000.
 - (4) Qui Tam, False Claims Act, and Whistleblower appeals.
 - (5) COVID-19-related litigation.
 - (6) Employment law matters, if requested in WMATA's sole discretion and not addressed by a separate WMATA panel.
 - (7) Appellate matters, including, but not limited to, appeals of torts cases.
 - (8) Other types of commercial litigation.
- B. Review documents as a part of the services provided under this section of the Scope of Work.
- C. Draft legal documents necessary for the consummation of any transaction covered in this section of the Scope of Work as requested.

D. Represent WMATA in other governmental investigations performed by entities including, but not limited to, the Government Accountability Office, the Department of Transportation, the Department of Justice, and state-level equivalents.

E. Provide legal advice and counsel on pre-litigation/dispute matters as may be requested and appropriate.

Note: The COTR or CO may request the awarded contractor(s) to perform other tasks within the litigation area.

Deliverables

Deliverables will be driven by the specific task orders issued against this SOW and are to be provided to the WMATA Legal Counsel and/or COTR in the format and due date dictated by the task order requirements (if applicable).

Period of Performance

The base period of performance for will be for five (5) years commencing on July 1, 2023. Task/delivery orders will be issued based on WMATA programmatic needs across its practice areas at any juncture during the period of performance and in any order.

Constraints

The Contractor will be expected to work closely with key WMATA stakeholders, and day-to-day counterparts will be identified during the project kick-off.

The Contractor will be expected to work closely (defined by the WMATA's Legal Counsel/designee, and/or COTR) with other ongoing WMATA efforts whose scope may intersect with, support, or depend on this effort.

The Contractor may be expected to coordinate and integrate with other WMATA or third-party personnel regarding the tasks herein.

Place of Performance

Contract performance may occur at a firm's office location, a WMATA location, the offices of opposing counsel, a courthouse, or such other place as WMATA may direct or agree to.

The Contractor shall make all efforts to utilize staffing resources within a 25-50-mile radius of WMATA headquarters located at 300 7th Street, SW, Washington, DC 20001.

WMATA does not anticipate that the Contractor will require a permanent footprint within WMATA facilities. Contractors may work remotely and allocate staff based on qualifications and skill as closely aligned to the scope of work, while ensuring staffing availability during WMATA's core work hours. If in-person meetings are required, these will be negotiated in advance with the contractor and the contracting officer and COTR as appropriate. **WMATA does not authorize the use of off-shore resources – all staffing must be United States-based staff.**

WMATA-Furnished Equipment

The Contractor shall supply its own equipment (computers, thumb drives, etc.) and software (MS Office Suite, Excel, etc.) required to perform the tasks herein.

WMATA will provide access to WMATA information systems as appropriate and to the extent required to perform the work specified herein, subject to WMATA's IT security protocols.

WMATA-Furnished Information

WMATA will provide the necessary documents as guidance in support of this effort when the task/delivery order is issued, if the task/delivery order requires it.

WMATA will facilitate (if and as necessary) introductions to members of peer transit organizations, industry/trade member organizations, union representatives, etc. as appropriate.

It is required that contractors work with the COTR and Contracting Officer to ensure Non-Disclosure and other Conflict of Interest (COI) agreements are in place prior to receiving any WMATA proprietary data. Note: WMATA is aware that conflicts of interest on specific matters may arise for firms who represent both the private and public sectors and it is WMATA's intent to address those conflicts pragmatically as they arise.

Evaluation Criteria

Offerors who choose to compete in more than one practice area must submit the information for each practice area and clearly state the specific practice area each proposal is intended to address. All elements of each response must be presented separately for each practice area for which the Offeror wishes to be considered.

Each proposal shall be evaluated per practice area and sub area based on the following evaluation factors, in the manner described below (all which are of equal importance):

1) Methodology and Technical Approach

Offeror will be evaluated on the methodology and technical approach to accomplish all elements identified in the Scope of Work and must demonstrate a thorough understanding of the technical components of the requirements and an awareness of the scope and complexity of services to be provided.

2) Staffing/Team Members

Offerors shall identify the firm's ability to provide the strength and depth of available personnel with the knowledge, qualifications, skills, and abilities to meet the requirements of the SOW.

The proposed team members (attorneys, non-attorneys) will be evaluated based on the extent of their relevant professional achievements, relevant experience (with a preference for work performed for transit industry clients), their professional qualifications, resumes, certifications, and must meet the requirements set forth in this RFP.

Note: Resumes must be submitted for each attorney proposed for each practice area. Proposed team members (attorneys, non-attorneys) and relevant documents can be proposed in more than one practice area. If proposed team members (attorneys, non-attorneys) span multiple practice areas, please note them in each practice area.

Proposed Team members (attorneys, non-attorneys) shall comprise the following:

- Attorneys:
 - At a minimum, one partner and one associate.
 - Each attorney must have a minimum of 4 years' experience in the proposed practice area/sub-area and your proposal should explain how it is relevant to this engagement.
 - All attorneys proposed must be in good standing with all bars of which that attorney is admitted to practice and not have been or currently be the subject of any disciplinary proceedings by such bar(s). Note: **A statement must be included in offeror's proposal averring that each proposed attorney is in good standing with all bar(s) and not subject (past or current) of any disciplinary proceedings by such bar(s).**
- Non-Attorneys:
 - All paralegals and/or other non-attorney staff must have at least two years of demonstrable experience relevant to the work proposed.

3) Past Performance

The Offeror will be evaluated on the Offeror's past performance and previous experience in performing services similar in size and scope as those described in Scope of Work for each practice area the Offeror wants to be considered for an award. The Offeror shall be evaluated on the following sub-factors:

- Offeror has demonstrated knowledge, experience, and ability to perform services similar in size and scope as the required services described in the Scope of Work.
- Offeror has provided a list of engagements that the Offeror has performed similar in size and scope from 2018 to date. Offeror's proposal must demonstrate whether the work performed for other public agencies was similar to the required services described in the Scope of Work. Offeror must provide with the proposal the following for three (3) relevant contracts or subcontracts: i. Name of contracting agency/activity; ii. Contract number; iii. Contract type; iv. Contract duration (or Period); v. Total contract value; vi. Description of work performed; vii. Contact Person name, phone, and e-mail address.
- For any Practice Areas for which an offeror is proposing, experience must be demonstrated via examples of cases/matters work on from 2018 to date.

4) Quality

The Offeror will be evaluated on the quality of its proposal which includes ensuring that all requirements of this SOW are addressed consistently throughout, that the content and approach reflect an understanding of WMATA and General Counsel's goals and objectives, and that the proposal has been quality checked (spelling, grammar, etc.) prior to submission.

PRICE SCHEDULE SHEET

Please use the price schedule posted/attached separately as an excel document.

REPRESENTATIONS AND CERTIFICATIONS

1. TYPE OF BUSINESS ORGANIZATION

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

Name	Signature
Title	Company
Date	

2. AFFILIATION AND IDENTIFYING DATA

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

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

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

Name of Parent Company

Main Office Address (including ZIP Code)

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

Name	Signature
Title	Company
Date	

3. COVENANT AGAINST GRATUITIES

By submission of this offer, Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement: Neither it nor any of its employees, representatives or agents have offered or given gratuities (in the form of

entertainment, gifts or otherwise) to any Board member, employee or agent of WMATA with the view toward securing favorable treatment in the awarding or administration of this Contract.

Name	Signature
Title	Company
Date	

4. CONTINGENT FEES

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

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

Name	Signature
Title	Company
Date	

5. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

- a. By submission of its offer, Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:
 - i) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Offeror or with any other competitor;
 - ii) Unless otherwise required by law, the prices that are quoted in this offer have not been knowingly disclosed by Offeror and will not be knowingly disclosed by Offeror

prior to award (in the case of a negotiated procurement), directly or indirectly, to any other Offeror or to any competitor; and

- iii) No attempt has been made or will be made by Offeror to induce any other person or firm to submit or not to submit an offer for the purpose of restricting competition.

b. Each person signing this offer certifies that:

- i) He or she is the person in Offeror's organization responsible for the decision regarding the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to those stated above; or
- ii) He or she is not the person in Offeror's organization responsible for the decision regarding the prices being offered herein, but that he/she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated; and will not participate, in any action contrary to those stated above, or as their agent he or she does hereby certify.

Name	Signature
Title	Company
Date	

6. NONDISCRIMINATION ASSURANCE

- a. By submission of this offer, Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, in connection with this procurement, that it will not discriminate on the basis of race, color, creed, religion, national origin, sex, age, disability, sexual preference and/or gender identity in the performance of this Contract. Offeror is required to insert the substance of this clause in all subcontracts and purchase orders. The Contractor's failure to carry out these requirements is a material breach of this Contract that may result in the termination of this Contract or such other remedy as WMATA deems appropriate. Offeror further agrees by submitting this offer that it will include this certification, without modification, in all subcontracts and purchase orders.

Name	Signature
Title	Company
Date	

7. DISCLOSURES OF INTERESTS OF WMATA BOARD MEMBERS

For purposes of this disclosure, terms are defined by the Code of Ethics for Members of the WMATA Board of Directors, a copy of which is available at www.wmata.com. Financial interests include ownership interests and prospective and actual income. Firm includes parents, subsidiaries and affiliates. By submission of this offer, Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that to the best of its knowledge, information and belief in connection with this procurement:

- a. No WMATA Board member, household member or business associate has a financial interest in this firm, in a financial transaction with WMATA to which this firm is a party or prospective party, or in an actual or prospective business relationship with WMATA to which this firm is a party.
- b. The following WMATA Board member(s), household member(s) or business associate(s) has a financial interest in this firm, in a financial transaction with WMATA to which this firm is a party or prospective party, or in an actual or prospective business relationship with WMATA to which this firm is a party, Include in "Nature of Interest" below, a description of the financial interest and (1) for ownership interests, the value of the interest, the name and address of the firm in which the interest is held, and the total equity or equivalent interest of the firm; and (2) for income, the amount of all income received by the Board member, household member or business associate in the current and preceding fiscal year for services provided, and the name and address of the firm from which the income was received.

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

- c. The certification required by a) and b) above shall be included in all subcontracts. The prime Contractor shall furnish copies of certifications to the Contracting Officer and retain a copy for inspection upon his or her request.

Name	Signature
Title	Company
Date	

8. CRIMINAL BACKGROUND SCREENING CERTIFICATION (QUARTERLY)

By submission of this offer, Offeror certifies that:

- a. It will contract with or engage a reputable third-party vendor to conduct criminal background screenings of all Contractor personnel who will have access to WMATA's customers, WMATA's property, or WMATA's information in connection with this Contract. This requirement also applies to Contractors who engage with the general public on WMATA's behalf.
- b. It will screen for criminal convictions all Contractor personnel who will have access to WMATA's customers, the general public, WMATA's property, or WMATA's information and who work on this Contract during each calendar year within this Contract's period of performance, taking into consideration: (1) the nature of the services or work being performed under the contract with particular regard for the individual's access to, and interaction with, WMATA's customers, property, and confidential information; (2) the nature

or gravity of the offense or conduct resulting in a criminal conviction; and (3) the time that has lapsed since the conviction and/or completion of the sentence. Offeror will provide certification that it conducted these screenings to the Contracting Officer's Technical Representative (COTR) on a quarterly basis, on a form provided.

- c. The Contractor shall submit to the COTR a list of all employees and agents who will require Contractor access badges not less than 7 days prior to the date on which access will be required.
- d. Offeror will determine that all Contractor personnel working on this Contract during the calendar year passed the Contractor's criminal background screening and will be in good standing and otherwise fit to work on this Contract.
- e. Offeror has not obtained or otherwise been made aware of any information about any Contractor personnel working on this Contract that contradicts or otherwise impacts the Contractor's determination that such persons passed the Contractor's criminal background screening and/or are fit to work on this Contract.
- f. The Contractor will flow this requirement down to all of its subcontractors who will have access to WMATA's customers, the general public, WMATA's property, or WMATA's information within this Contract's period of performance.

Name	Signature
Title	Company
Date	

9. CERTIFICATION REQUIRED FOR ALL SAFETY-SENSITIVE CONTRACTS

N/A

10. NON-DISCLOSURE AND DATA ACCESS TERMS

The Contractor hereby represents and warrants that it will comply with the Non-Disclosure and Data Access Terms contained in the Standard Terms and Conditions, including the indemnity provisions contained therein.

Name	Signature
Title	Company
Date	

11. DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

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

a. Primary Covered Transactions. This certification applies to the Offer submitted in response to this solicitation and will be a continuing requirement throughout the term of any resultant Contract.

i) In accordance with the provisions of 2 C.F.R. Part 1200 and 2 C.F.R. Part 180, Subpart C, Offeror certifies to the best of its knowledge and belief that it and its principals:

1) are not currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or state department or agency;

2) have not, within a three (3) year period preceding this offer, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction; violation of Federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3) are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses enumerated above in this certification; and have not, within a three (3) year period preceding this offer, had one (1) or more public transactions (Federal, state, or local) terminated for cause or default.

ii) Where Offeror is unable to certify to any of the statements in this certification, Offeror shall attach an explanation to this offer.

b. Lower Tier Covered Transactions. This certification applies to a subcontract at any tier expected to equal or exceed \$25,000 and will be a continuing requirement throughout the term of this Contract.

i) The prospective lower tier subcontractor certifies, by submission of this offer, that neither it nor its principals is currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal or state department or agency.

ii) Where the prospective lower tier subcontractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its proposal.

c. The Certification required, above, shall be included in all applicable subcontracts and the Contractor shall keep a copy on file. The Contractor shall be required to furnish copies of certifications to the Contracting Officer upon his or her request.

Name	Signature
Title	Company
Date	

12. FITNESS FOR DUTY CERTIFICATION (BI-ANNUALLY)

All WMATA employees, contractors and their agents ("personnel") who perform safety sensitive functions, as defined by DOT/FTA requirements in 49 C.F.R. Part 655, must arrive for work fit to perform the essential functions of his or her job and must not pose a threat to the safety of him or herself or to others. By submission of this offer, Offeror certifies that:

- a.** Its personnel who perform safety-sensitive work pursuant to this Contract attest to compliance with WMATA's current Fitness for Duty Program requirements and ability to safely work within their job classification when they clock in to begin work. They must perform their job responsibilities in a safe, secure, productive and effective manner during their entire work shift. In the event that contractor personnel are not fit for duty due to the use of illegal drugs, prescription or over the counter medications or supplements, sleep deprivation, alcohol or other mental or physical impairments, they must immediately report this information to their supervisor and follow the instructions which are provided.

- b.** This bi-annual certification must be provided to the COTR during this Contract's entire period of performance. The Contractor will flow this requirement down to all of its subcontractors who will have access to rail vehicles or other on-track vehicles, require a CDL to perform their job duties or otherwise perform safety-sensitive functions pursuant to this Contract and within this Contract's period of performance.

Name	Signature
Title	Company
Date	

SPECIAL TERMS AND CONDITIONS

1. COMMUNICATIONS WITH WMATA

Offeror is advised that any and all communications with WMATA relating to this solicitation and made by, or on behalf of, Offeror at any time between release of this solicitation and award of a Contract hereunder must be directed to the Contract Administrator as follows:

Sieaun Marks

smarks@wmata.com

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

2. PROPOSAL ACCEPTANCE PERIOD AND OFFEROR'S DEFAULT

- a. In order to allow for adequate evaluation, the acceptance period for this solicitation is one hundred twenty calendar days after submittal date and time.
- b. By submission of its proposal, Offeror agrees that it shall be irrevocable and shall remain available to WMATA to award a Contract pursuant to this solicitation for not less than the acceptance period. Offeror's failure to furnish required documents and/or to execute a Contract from WMATA in accordance with its offer, during the acceptance period shall constitute an Offeror's default.
- c. In the event of an Offeror's default, Offeror shall be liable to WMATA for all associated damages and costs, including without limitation, WMATA's "cost to cover." The "cost to cover" is the difference between the offer price and the price WMATA ultimately pays for the work encompassed in this solicitation, whether through award of a Contract to another Offeror, pursuant to this solicitation or otherwise.

3. PRE-PROPOSAL CONFERENCE: N/A

For the purpose of clarifying the terms, conditions, and requirements of this solicitation, a pre-proposal conference will be held to respond to questions by prospective Offeror's. This conference will be held at _____ a.m. /p.m. on _____ (Date) via videoconference as well on a dedicated WMATA conference line. It is requested that offerors submit their questions in writing, in advance of the meeting, if possible. Questions during the meeting, however, are permissible.

4. EVALUATION CRITERIA AND BASIS FOR AWARD

BEST VALUE

- a. Proposals will be evaluated based upon application of the following Evaluation Criteria:

Evaluation Criteria

Offerors who choose to compete in more than one practice area must submit the information for each practice area and clearly state the specific practice area each proposal

is intended to address. All elements of each response must be presented separately for each practice area in which the Offeror wishes to be considered.

Each proposal shall be evaluated per practice area and sub area based on the following evaluation factors, in the manner described below (all which are of equal importance):

1) Methodology and Technical Approach

Offeror will be evaluated on the methodology and technical approach to accomplish all elements identified in the scope of work and must demonstrate a thorough understanding of the technical components of the requirements and an awareness of the scope and complexity of services to be provided.

2) Staffing/Team Members

Offerors shall identify the firm's ability to provide the strength and depth of available personnel with the knowledge, qualifications, skills, and abilities to meet the requirements of the SOW.

The proposed team members (attorneys, non-attorneys) will be evaluated based on the extent of their relevant professional achievements, relevant experience (with a preference for work performed for transit industry clients), their professional qualifications, resumes, certifications, and must meet the requirements set forth in this RFP.

Note: Resumes must be submitted for each attorney proposed for each practice area. Proposed team members (attorneys, non-attorneys) and relevant documents can be proposed in more than one practice area. If proposed team members (attorneys, non-attorneys) span multiple practice areas, please note them in each practice area.

Proposed Team members (attorneys, non-attorneys) shall comprise the following:

- Attorneys:
 - At a minimum, one partner and one associate.
 - Each attorney must have a minimum of 4 years' experience in the proposed practice area/sub-area and your proposal should explain how it is relevant to this engagement.
 - All attorneys proposed must be in good standing with all bars of which that attorney is admitted to practice and not have been or currently be the subject of any disciplinary proceedings by such bar(s). Note: A statement must be included in offeror's proposal averring that each proposed attorney is in good standing with all bar(s) and not subject (past or current) of any disciplinary proceedings by such bar(s).
- Non-Attorneys:

All paralegals and/or other non-attorney staff must have at least two years of demonstrable experience relevant to the work proposed.

3) Past Performance

The Offeror will be evaluated on the Offeror's past performance and previous experience in performing services similar in size and scope as those described in Scope of Work for each practice area the Offeror wants to be considered for an award. The Offeror shall be evaluated on the following sub-factors:

- Offeror has demonstrated knowledge, experience, and ability to perform services similar in size and scope as the required services described in the scope of work.
- Offeror has provided a list of engagements that the Offeror has performed similar in size and scope from 2018 to date. Offeror's proposal must demonstrate whether the work performed for other public agencies was similar to the required services described in the scope of work. Offeror must provide with the proposal the following for three (3) relevant contracts or subcontracts: i. Name of contracting agency/activity; ii. Contract number; iii. Contract type; iv. Contract duration (or Period); v. Total contract value; vi. Description of work performed; vii. Contact Person name, phone, and e-mail address.
- For any Practice Areas for which an offeror is proposing, experience must be demonstrated via examples of cases/matters work on from 2018 to date.

4) Quality

The Offeror will be evaluated on the quality of its proposal which includes ensuring that all requirements of this SOW are addressed consistently throughout, that the content and approach reflect an understanding of WMATA and Legal Department's goals and objectives, and that the proposal has been quality checked (spelling, grammar, etc.) prior to submission.

- b.** The Authority will award contracts to the responsible offerors whose proposals conform to the solicitation and are determined to provide the greatest overall benefit in response to the requirements based on an overall assessment of technical merit and price in accordance with the Evaluation Criteria. In conducting this assessment, the Authority is more concerned with obtaining superior technical capabilities than with making an award based on the lowest price or cost. However, the Authority will not make an award at a significantly higher price or cost to achieve only slightly superior technical capabilities.

5. RATINGS FOR PROPOSAL EVALUATION CRITERIA -- (BEST VALUE ONLY)

Each criterion will be rated using the adjectival scoring method as follows:

Definition of adjectival rankings:

Exceptional: Exceeds specified performance or capability in a beneficial way to WMATA and has no weakness.

Acceptable: Meets evaluation standards required under the technical provisions. Weaknesses are correctable.

Marginal: Fails to meet evaluation standard; however, any significant deficiencies are correctable. Lacks essential information to support a proposal. Marginal ratings must be resolved prior to award.

Unacceptable: Fails to meet an acceptable evaluation standard and the deficiency is uncorrectable. Proposal would have to undergo a major revision to become acceptable. Demonstrated lack of understanding of WMATA's requirements or omissions of major areas.

A rating of "Acceptable" or higher is required to be eligible for award consideration. Offerors are cautioned to be aware of this standard when preparing proposals.

6. REQUIREMENTS CONTRACT: N/A

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

7. INDEFINITE QUANTITY CONTRACT

- a.** This is an indefinite-quantity Contract for the supplies or services specified, and effective for the period of performance stated in the Price Schedule. The quantities of supplies and/or services specified in the Price Schedule are estimates only.
- b.** Delivery or performance shall be made only as the Contracting Officer authorizes through orders made in accordance with the "Ordering" and "Order Limitations" clauses. The Contractor shall furnish to WMATA, when and if ordered, the supplies and/or services specified in the Price Schedule up to and including the quantity designated in the Price Schedule as the "maximum." WMATA shall order at least the quantity of supplies and/or services designated in the Price Schedule as the "minimum."
- c.** There is no limit on the number of orders that may be issued other than any limitations imposed by the "Order Limitations" clause. WMATA may issue orders requiring delivery to multiple destinations or performance at multiple locations.
- d.** Any order issued during the effective period of this Contract and not completed within that period shall be completed by the Contractor within the time specified in the order. This Contract and WMATA's Best Practices Manual (BPM) shall govern the parties' rights and

obligations regarding that order to the same extent that they would have governed the order had it been completed during the Contract's effective period.

8. ORDERING

- a. The Contracting Officer shall order any supplies and/or services to be furnished under this Contract by the issuance of delivery orders or task orders. Such orders may be issued throughout the period of performance.
- b. All delivery orders or task orders are subject to the terms and conditions of this Contract. In the event of a conflict between a delivery order or task order and this Contract, this Contract shall control.
- c. If mailed, a delivery order or task order is considered "issued" when WMATA places the order in the mail. Orders may be issued electronically if the Contract authorizes it.

9. ORDER LIMITATIONS

- a. The minimum dollar amount which will be required under this IDIQ contract, and which will be initiated by one or more Orders, is \$500.00 over the life of the Contract (includes base and option periods or years).
- b. The maximum dollar amount which will be required under this IDIQ contract, and which will be initiated by one or more orders, is the contractor's maximum price proposal accepted by WMATA in the contract award over the life of the Contract (includes base and option years).

10. SITE VISIT/INSPECTION OFFEROR'S FACILITIES; N/A

A successful Offeror must maintain sufficient facilities that will allow it to adequately perform Contract as specified herein. WMATA may make site visits prior to Contract award to examine the Offeror's facilities. This will include _____ (CA TO DETERMINE) and also to verify that necessary equipment, supplies, etc. are readily available.

11. PERFORMANCE/PAYMENT BONDS: N/A

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

12. PERIOD OF PERFORMANCE

The base period of performance for will be for five (5) years commencing on July 1, 2023. Task/delivery orders will be issued based on WMATA programmatic needs across its practice areas at any juncture during the period of performance and in any order.

13. OPTIONS-EVALUATION

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

14. OPTIONS- EXERCISE

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

- a. WMATA may increase or decrease the quantities of supplies called for in the Price Schedule, at the unit price specified. WMATA may also require the delivery of a numbered line item, identified in the Price Schedule as an option item, in the quantity and at the price stated in the Price Schedule. The Contracting Officer may exercise the option by written notice to the Contractor within a reasonable amount of time before exercising the option. Delivery of the added items shall continue at the same rate as the like items called for under the Contract, unless the parties agree otherwise.

16. OPTIONS TO EXTEND SERVICES

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

17. OPTION TO EXTEND CONTRACT PERIOD OF PERFORMANCE

- a. WMATA may unilaterally extend the period of performance for the work under this contract by written notice to the Contractor within a reasonable amount of time before exercising this option. The Contractor must accept any reasonable extension and continue performance without interruption. The Contractor's sole remedy following WMATA's exercise of its unilateral right to extend performance is to submit a claim for an equitable adjustment to the Contract price.
- b. If WMATA exercises this unilateral right, the extended contract shall incorporate the new period of performance. Any additional options remaining under the contract will be appended to and remain available through the new period of performance.
- c. The total duration of this contract shall include any extensions as well as option periods. In no event shall the total duration of the contract extend beyond the maximum term permitted by the Federal Transit Administration, if otherwise made applicable to this contract elsewhere.

18. OPTIONS EXERCISED OUT OF SEQUENCE

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

19. BRAND NAME OR EQUAL: N/A

- a. If items called for by this solicitation have been identified in the Price Schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not

restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Proposals offering "equal" products, including products of the brand name manufacturer, other than the one described by brand name will be considered for award, if such products are clearly identified in the proposals and WMATA determines that they fully meet the salient characteristics (physical, functional, or performance) requirements in the solicitation.

- b. Unless the Offeror clearly indicates in its proposals that it is offering an "equal" product, the Offer shall be considered as offering a brand name product referenced in the solicitation.
- c. If the Offeror proposes to furnish an "equal" product, a description of the product to be furnished shall be placed in the space provided in the solicitation, or such product shall be otherwise clearly identified in its proposals. WMATA, at its sole discretion, must be able to determine equality without an extensive evaluation. Thus, if the Offeror has some information demonstrating equality of the proposed equal, such as acceptance by another transit agency, it should submit such documentation with its offer.
- d. CAUTION TO OFFERORS. WMATA is not responsible for locating or securing any information that is not identified in its offer and reasonably available to WMATA. The Offeror must furnish as a part of its proposal all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for WMATA's determination.

20. LIQUIDATED DAMAGES FOR DELAY: N/A

- a. Time is of the essence for this contract.
- b. If the Contractor fails to deliver the supplies or perform the services within the time specified in this contract, or as subsequently extended by the Contracting Officer via written contract modification, the Contractor shall pay to WMATA _____ per calendar day of delay. WMATA and the Contractor hereby agree this amount is not a penalty, but rather liquidated damages.
- c. If WMATA terminates this contract in whole or in part for Default, the Contractor is liable for liquidated damages accruing until WMATA reasonably obtains delivery or performance of similar supplies or services. These liquidated damages are in addition to excess procurement costs arising out of a termination for default.
- d. WMATA shall have the right to deduct such liquidated damages from any monies due or which may become due to the Contractor under this Contract. If the amount that becomes due is less than liquidated damages due to WMATA, the Contractor shall pay the difference upon the Contracting Officer's demand.

21. LIVING WAGE

- a. WMATA's Living Wage Policy and implementing regulations apply with respect to all contracts for services (including construction) awarded in an amount that exceeds

\$250,000 in a twelve (12) month period. If this Contract meets those criteria, the following requirements are applicable:

WMATA's living wage rate is \$15.58 per hour and may be reduced by the Contractor's per-employee cost for health insurance.

b. The Contractor shall:

- i)** Pay WMATA's living wage rate, effective during the time the work is performed, to all employees who perform work under this Contract;
- ii)** Include this "Living Wage" clause in all subcontracts that exceed \$250,000 in a twelve (12) month period awarded under this Contract;
- iii)** Maintain payroll records, in accordance with the requirements of this Contract, and include a similar provision in affected subcontracts that requires the subcontractor to maintain its payroll records for the same length of time; and
- iv)** Certify with each monthly invoice that WMATA's living wage rate was paid to affected employees, or if applicable, certify prior to Contract award or Contract extension, if any, that one or more of the exemptions in paragraph (d) below applies.
- v)** The Contractor shall not split or subdivide this Contract, pay an employee through a third party, or treat an employee as a subcontractor or independent contractor to avoid compliance with this "Living Wage" clause.

c. Exemptions to this "Living Wage" clause include:

- i)** Contracts and agreements subject to higher wage rates required by Federal law or collective bargaining agreements;
- ii)** Contracts or agreements for regulated utilities;
- iii)** Emergency services to prevent or respond to a disaster or imminent threat to public health and safety;
- iv)** Contractor employees who work less than full time; and
- v)** Contractors who employ fewer than ten (10) employees

d. WMATA may adjust the living wage rate effective in January of each year. The adjustment will reflect the average living wage rate among Metro's Compact jurisdictions with living

wage rates. If after Contract award the living wage rate increases, the Contractor is entitled to an equitable adjustment to the Contract price in the amount of the increase for employees who are affected by the escalated wage.

- e. Failure to comply with WMATA's Living Wage Policy shall result in WMATA's right to exercise available contract remedies, including contract termination, where there is evidence of fraud.
- f. If the Contracting Officer determines that there is evidence of fraud, WMATA's remedy prior to adjudication by a court of competent jurisdiction is to report the matter to WMATA's Office of Inspector General (OIG), the U.S. Department of Transportation's Office of Inspector General (DOT-OIG), the Offices of Inspectors General of any state or Federal agency providing funding under this Contract and/or appropriate Federal, state and/or local law enforcement authorities.

22. RETAINAGE

- a. Alternate Security in lieu of Retainage. - N/A.
- b. Final Payment Only Retainage. - N/A.
- c. No Retainage. No provision of this Contract shall serve to deny Contractor's entitlement to full payment for properly performed work or suitably stored materials. No amounts shall be withheld from any payment request submitted by Contractor based on percentage of the work performed during the period of performance and no amounts shall be assigned to the line items, other than as assigned by Contractor in its payment requests.

23. WARRANTY OF SUPPLIES: N/A

- a. All workmanship, parts and materials furnished for this Contract shall be unconditionally warranted by the Contractor against failures or defects for a period of one (1) year after WMATA accepts them or places them in service, whichever is earlier. If the original equipment manufacturer (OEM) offers a longer or more comprehensive warranty than the Contractor, then the Contractor shall pass the OEM's warranty on to WMATA. The Contractor shall accept WMATA's records regarding the date the item was accepted or placed in service.
- b. In the event that any work, parts or materials covered by this Warranty fails during the Warranty period, the Contractor shall or require that the OEM repair or replace the work within three (3) days without cost or expense to WMATA.
- c. Should the Contractor fail to repair or replace any part or do any work in accordance with the terms of this Warranty, or if immediate replacement or work is necessary to maintain operations, WMATA shall have the right to cause such replacement to be made, utilizing its own forces and/or those of third parties as WMATA shall reasonably deem appropriate, at Contractor's expense.

- d. Each piece of equipment, component or part thereof that the Contractor replaces, repairs, adjusts or services in any manner under the terms of this Warranty during the Warranty period shall be reported to the Contracting Officer on WMATA's forms. Each report shall indicate in detail all repairs, adjustments and servicing to each and every component, unit or part thereof.
- e. Any warranty work shall be accomplished with minimum disruption to WMATA's operations and to its maintenance and service facilities. WMATA shall at its sole discretion determine the availability of facilities for warranty work.
- f. The Contractor shall make adequate service facilities available, along with spare parts, for all the items under warranty. Trained technical service personnel shall be available to WMATA sufficient to meet the Contractor's warranty obligations.
 - i) The Contractor shall provide field service representatives who are competent and fully qualified in the maintenance and operation of the warranted items. These field service representatives shall assist WMATA in overcoming any difficulties in the operation or maintenance of the warranted items. They shall further serve as the Contractor's on-site representatives for any component failure claims or warranty claims under this Contract.
 - ii) During the warranty period, a field service representative shall be available within twenty-four (24) hours' notice.
- g. WMATA's rights set forth in this clause shall be in addition to those set forth elsewhere in this Contract or otherwise at law or in equity.

24. WARRANTY OF SERVICES

- a. Definitions.

"Acceptance," as used in this clause, means the act(s) of WMATA's authorized representative by which WMATA approves specific services, in partial or complete performance of the Contract.
- b. Notwithstanding inspection and acceptance by WMATA or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor within thirty (30) days from the date of acceptance by WMATA. This notice shall state either -
 - i) That the Contractor shall correct or re-perform any defective or nonconforming services; or

- ii) That WMATA does not require correction or re-performance.
- c. If the Contractor is required to correct or re-perform, it shall be at no cost to WMATA, and any services corrected or re-performed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or re-perform, the Contracting Officer may, by contract or otherwise, correct or replace the services with similar services and charge the Contractor with the cost, or make an equitable adjustment to the Contract price.
- d. If WMATA does not require correction or re-performance, the Contracting Officer shall make an equitable adjustment to the Contract price.

25. SPARE PARTS: N/A

The contractor agrees to provide all spare parts necessary to repair and maintain all equipment and supplies under this Contract for a period of at least three years, beginning on the date of final acceptance of each shipment of equipment/supplies. All such parts shall be the functional equivalent of the original parts, and must be interchangeable with them to permit their continued use at the same performance levels without an increase in the contractor's catalog prices. When the contractor cannot provide spare parts within 90 days of WMATA's order, the contractor shall provide to WMATA, within five (5) business days of WMATA's request, all specifications, documentation, and necessary form, fit, and function data required to manufacture the functional equivalent of such parts by additive manufacturing. WMATA's additive manufacturing and any subsequent use will be for the sole purpose of enabling WMATA's continued use of the original equipment and supplies, including all reasonable modifications thereto.

26. WHISTLEBLOWER PROTECTION -- NON-FEDERAL

- a. The Contractor and its subcontractors shall encourage their employees and independent contractors to report information without fear of actual or threatened discrimination, retaliation or reprisal that they in good faith reasonably believe is evidence of gross mismanagement; gross misuse or waste of public resources or funds; fraud; violation of law; abuse of authority in connection with the conduct of WMATA operations or contracts; or a substantial and specific danger to health, security or safety. The Contractor and its subcontractors shall notify their employees that they may make reports under this paragraph to:
 - i) WMATA's Office of Inspector General (OIG), in person, in writing, through the OIG Hotline (888-234-2374) or email wmata-oig-hotline@verizon.net or by any other reasonable means;
 - ii) WMATA's Metro Transit Police Department (MTPD), in person, by telephone (202-962-2121) or by any other reasonable means, or to the OIG, if the information constitutes a potential violation of criminal law;
 - iii) WMATA's Chief Safety Officer, in person, in writing, through the SAFE Hotline (202-249-7233) or email safety@wmata.com, or by any other reasonable means; or

STANDARD TERMS AND CONDITIONS

Complete text for the Standard Terms and Conditions is posted on WMATA's website. You can directly view this information on https://www.wmata.com/business/procurement/upload/Standard_Terms_and_Conditions_Ver_07182022.pdf

1. AGREEMENT
2. ARRANGEMENT OF CONTRACTUAL PROVISIONS
3. ORDER OF PRECEDENCE
4. AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR
5. CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)
6. FORCE MAJEURE/EXCUSABLE DELAYS/TIME EXTENSIONS
7. WMATA'S DELAY
8. NOTICE TO WMATA OF LABOR DISPUTES
9. NOTIFICATION OF BANKRUPTCY OR INSOLVENCY
10. INSPECTION OF SERVICES
11. INSPECTION OF SUPPLIES
12. ACCEPTANCE OF SUPPLIES
13. MATERIAL & WORKMANSHIP
14. CORRECTION OF DEFICIENCIES
15. FIRST ARTICLE INSPECTION
16. F.O.B. DESTINATION
17. QUALITY ASSURANCE/QUALITY CONTROL
18. CHANGE ORDERS
19. PRICING OF ADJUSTMENTS
20. ACCOUNTING AND RECORD KEEPING FOR ADJUSTMENTS
21. BILLING AND PAYMENT
22. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA -- MODIFICATIONS
23. SUBCONTRACTOR PAYMENTS
24. GARNISHMENT OF PAYMENTS
25. STOP WORK ORDERS
26. TERMINATION FOR DEFAULT
27. TERMINATION FOR CONVENIENCE
28. ASSIGNMENT
29. DISPUTES
30. EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS FOR CONSTRUCTION CONTRACTS
31. INDEMNIFICATION
32. TITLE AND RISK OF LOSS
33. INAPPLICABILITY OF CLAUSES REQUIRING UNAUTHORIZED OBLIGATIONS
34. PATENT INDEMNITY
35. SET-OFF
36. RIGHTS IN TECHNICAL DATA
37. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT
38. ROYALTY INFORMATION
39. NONDISCRIMINATION ASSURANCE
40. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT- OVERTIME COMPENSATION
41. WALSH-HEALEY PUBLIC CONTRACTS ACT
42. DAVIS-BACON ACT
43. CONVICT LABOR
44. COVENANT AGAINST CONTINGENT FEES
45. SEAT BELT USE POLICY
46. SENSITIVE SECURITY INFORMATION
47. LAWS AND REGULATIONS

48. HAZARDOUS MATERIAL IDENTIFICATION AND SAFETY DATA SHEETS
49. METRIC SYSTEM
50. MANDATORY DISCLOSURE
51. EMPLOYMENT RESTRICTION WARRANTY
52. GRATUITIES
53. OFFICIALS NOT TO BENEFIT
54. ORGANIZATIONAL CONFLICTS OF INTEREST
55. PERSONAL CONFLICTS OF INTEREST
56. CONTRACTOR PERSONNEL
57. FALSE STATEMENTS, CLAIMS OR SUBMISSIONS
58. PUBLIC COMMUNICATIONS
59. FEDERAL, STATE, AND LOCAL TAXES
60. CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE
61. SEVERABILITY
62. SURVIVAL
63. GOVERNMENT-WIDE DEBARMENT OR SUSPENSION
64. PROGRESS PAYMENTS
65. SAFETY REQUIREMENTS
66. CRIMINAL BACKGROUND CHECK REQUIREMENT
67. NON-DISCLOSURE AND DATA ACCESS TERMS

MAPT Cooperative Rider Clause



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

I. Format

A lead agency format is used to accomplish this work. This Participating Agency, serving as Lead Agency for this procurement, has included this MAPT Cooperative Rider Clause. This allows other public entities to participate pursuant to the following Cooperative Rider Clause Terms and Conditions:

A. Terms

1. Any public entity participating in this procurement ("Participating Agency"), through their use of this Cooperative Rider Clause, agree to the terms and conditions of the resulting contract to the extent that they can be reasonably applied to the Participating Agency.
2. A Participating Agency may also negotiate additional terms and conditions specific to their local requirements upon mutual agreement between the parties.

B. Other Conditions - Contract and Reporting

1. The resulting contract shall be governed by and "construed" in accordance with the laws of the State/jurisdiction in which the Participating Agency is officially located;
2. To provide to MAPT contract usage reporting information, including but not limited to quantity, unit pricing and total volume of sales by entity, as well as reporting any Participating Agency added on the contract, on demand and without further approval of Participating Agency;
3. Contract obligations rest solely with the Participating Agency only; and
4. Significant changes in total contract value may result in further negotiations of contract pricing with the Lead Agency and any Participating Agency. See Appendix B for the impact of contract modifications on DBE/SBE requirements.

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

In order to ride an awarded contract, a COG Rider Clause Approval Form (below) must be completed and approved by the Lead Agency.

II. Participating Members

COG MEMBER GOVERNMENTS

District of Columbia

Maryland

- ✓ Town of Bladensburg
- ✓ City of Bowie
- ✓ City of College Park
- ✓ Charles County
- ✓ City of Frederick
- ✓ Frederick County
- ✓ City of Gaithersburg
- ✓ City of Greenbelt
- ✓ City of Hyattsville
- ✓ Montgomery County
- ✓ Prince George's County
- ✓ City of Rockville
- ✓ City of Takoma Park

Virginia

- ✓ City of Alexandria
- ✓ Arlington County
- ✓ City of Fairfax
- ✓ Fairfax County
- ✓ City of Falls Church
- ✓ Loudoun County
- ✓ City of Manassas
- ✓ City of Manassas Park
- ✓ Prince William County

Other Local Governments

- ✓ Town of Herndon
- ✓ Spotsylvania County
- ✓ Stafford County
- ✓ Town of Vienna

Public Authorities/Agencies

- ✓ Alexandria Renew Enterprises
- ✓ District of Columbia Water and Sewer Authority
- ✓ Metropolitan Washington Airports Authority
- ✓ Metropolitan Washington Council of Governments
- ✓ Montgomery County Housing Opportunities Commission
- ✓ Potomac & Rappahannock Transportation Commission
- ✓ Prince William County Service Authority

- ✓ Upper Occoquan Service Authority
- ✓ Washington Metropolitan Area Transit Authority
- ✓ Washington Suburban Sanitary Commission

School Systems

- ✓ Alexandria Public Schools
- ✓ Arlington County Public Schools
- ✓ Charles County Public Schools
- ✓ District of Columbia Public Schools
- ✓ Frederick County Public Schools
- ✓ Loudoun County Public Schools
- ✓ City of Manassas Public Schools
- ✓ Montgomery College
- ✓ Montgomery County Public Schools
- ✓ Prince George's County Public Schools
- ✓ Prince William County Public Schools
- ✓ Spotsylvania County Schools
- ✓ Winchester Public Schools

BALTIMORE METROPOLITAN COUNCIL AGENCIES

- ✓ City of Annapolis
- ✓ Anne Arundel County
- ✓ Anne Arundel County Public Schools
- ✓ Anne Arundel Community College
- ✓ City of Baltimore
- ✓ Baltimore City Public Schools
- ✓ Baltimore County
- ✓ Baltimore County Public Schools
- ✓ Community College of Baltimore County
- ✓ Carroll County
- ✓ Harford County
- ✓ Harford County Public Schools
- ✓ Harford Community College
- ✓ Howard County
- ✓ Howard County Public Schools System
- ✓ Howard Community College
- ✓ Queen Anne's County Public Schools

MWCOG Rider
Clause Approval
Form Sample

This form must be executed for any Participating Agency, both within and outside of the Mid- Atlantic Purchasing Team (MAPT) region, to use the MAPT Cooperative Rider Clause to ride solicitations and contracts.

NOTE: Effective January 1, 2019, MWCOG does not authorize the use of the MAPT/COG Cooperative Rider Clause without this form being completed and approved.

Participating Agency Name _____

Contact Person _____ Phone _____

_____ Email Address _____

Solicitation/Contract Information:

Name Solicitation/Contract _____

Lead Agency/Contract Holder _____

Contact Person _____

Solicitation/Contract Number _____ Other Reference _____

Vendor Information:

Contractor Name _____ Address _____ City/State/Zip _____

Contact Person _____ Phone _____ Email Address _____

See questions on next page.

APPENDICES

Appendix A - Insurance Requirements: NA

Appendix B

**NOTICE OF REQUIREMENTS FOR DISADVANTAGED BUSINESS
ENTERPRISE (DBE) -- N/A**

Appendix B-1

**NOTICE OF REQUIREMENTS FOR SMALL BUSINESS
ENTERPRISE (SBE) PROGRAM -- N/A**

APPENDIX B-2

**NOTICE OF REQUIREMENTS FOR MINORITY BUSINESS
ENTERPRISE (MBE) PROGRAM -N/A**

APPENDIX C
Contractor Oversight Certification -- N/A

Combined Glossary of Definitions

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

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

Acceptance Period: The number of days available to WMATA to award a Contract pursuant to this solicitation, during which period offerors may not withdraw their proposal.

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

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

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

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

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

Certified MBE: A for-profit small business concern (i) that is at least fifty-one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which fifty-one percent (51%) of the stock is owned by one or more such individuals; (ii) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and (iii) whose eligibility is evidenced by a current WMATA Certification letter. (See Appendix B-2 for an explanation of how WMATA's MBE program works.)

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

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

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

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

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

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

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

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

Contracting Officer's Technical Representative: The person to whom the Contracting Officer delegates WMATA and responsibility for post-award execution of technical issues regarding the Contract. The Contracting Officer's Technical Representative is WMATA's primary point of contact with its Contractor.

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

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

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

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

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

Directed, ordered, designated, prescribed or words of like importance: Shall be understood that the direction, requirement, order, designation or prescription of the Contracting Officer is intended and similarly the words approved, acceptable, satisfactory or words of like import shall mean approved by, or acceptable to, or satisfactory to the Contracting Officer, unless otherwise expressly stated.

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

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

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

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

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

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

Government: The Government of the United States of America.

Industry Standards: Drawings, documents, and specifications or portions thereof published by industry organizations. Industry Standards are not part of this Contract unless specifically listed as such in the Scope of Work.

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

Micro Business Program (MBP): A race-neutral contracting program that sets aside purchases for competition amongst very small businesses only. Eligibility is restricted to businesses that have their primary office located in Maryland, the District of Columbia or Virginia.

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

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

Minority Business Enterprise (MBE): A business must be at least 51% owned and controlled by one or more socially-and economically-disadvantaged individuals. Under current State law, an individual is presumed to be socially and economically disadvantaged if that individual belongs to one of the following groups: African Americans, Hispanic Americans, Asian Pacific Americans, Subcontinent Asian Americans, Native Americans, and Women. Persons who own and control their business, but are not members of one of the above groups, also may be eligible for MBE certification if they establish their social and economic disadvantage.

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

Offeror: A party submitting a proposal to this solicitation.

Option: A unilateral right in the Contract by which, for a specified time, WMATA may elect to purchase, at a predetermined price, additional supplies, services and/or work called for by the Contract or to extend the term of the Contract.

Organizational conflict of interest: A circumstance in which, because of other activities or relationships, a person, corporation or other business entity is unable or potentially unable to render impartial assistance or advice to WMATA, or its objectivity in performing the Contract is or might be otherwise impaired, or it has an unfair competitive advantage.

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

complete performance of the final option. The period of performance incorporates the milestones established for the Contract.

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

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

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

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

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

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

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

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

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

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

Solicitation: Invitation for Bids (IFB) or Request for Proposal (RFP)

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

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

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

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

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

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

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

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

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

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

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

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

WMATA Certification Programs (WCP): Includes all federal and non-federal certification programs offered by WMATA, i.e., DBE, SBE, MBE, SBP and MBP certifications. The MBE, SBP and MBP covers non-federally funded contract activity.

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