

**Request for Proposals
MANAGEMENT SERVICES
RFP SRTA 2011-01**

**For
The Southeastern Regional Transit Authority
(SRTA)**

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**SOUTHEASTERN REGIONAL TRANSIT AUTHORITY
PROPOSAL FOR MANAGEMENT AND OPERATIONAL SERVICES**

SOLICITATION

The Southeastern Regional Transit Authority (SRTA) is soliciting proposals from qualified contractors for management and operational services of its public transit system and ancillary public transit services as allowed by Massachusetts General Law (MGL) 161B and the Urban Mass Transportation Act of 1964, as amended.

SRTA's TRANSIT PHILOSOPHY

It is the goal of the Southeastern Regional Transit Authority, through its Operator to provide the best and maximum amount of transportation possible to its service area for the least amount of money in accordance with its limited revenues as received through its agreements with both the Federal Government (through the Federal Transit Administration) and the Commonwealth of Massachusetts (MASS-DOT).

INTRODUCTION

SRTA currently provides public transportation services within the Cities of New Bedford and Fall River and the Towns of Somerset, Swansea, Westport, Dartmouth, Fairhaven, Acushnet, Mattapoisett and Freetown.

These Cities and Towns comprise the membership of the SRTA Advisory Board which is the governing body as provided for by MGL 161B, with the day to day oversight being provided by the Administrator.

SRTA's objective is to maintain its present transportation services in accordance with its philosophy and includes operation of the following:

- A. Fixed routes in the New Bedford and Fall River Divisions, consisting of approximately twenty-six (26) routes, equally divided between those Divisions. This service is provided with sixty eight (68) transit buses, operating approximately 1,500,000 miles annually.
- B. Paratransit Demand Response Service - The Authority's Demand Response Service operates in all cities and towns comprising the Authority. This service is provided by approximately twenty-one (21) paratransit vehicles. Approximately 50,000 passengers are carried annually by these vehicles, operating approximately 285,000 revenue miles annually.
- C. Operation of Terminals and Ticket Agencies - The Authority owns two (2) downtown passenger terminal facilities: one in New Bedford and one in Fall River. The New Bedford facility also has two floors of secured indoor parking on top of the terminal (approx. 90 parking spaces).

D. Brokered Services - To provide brokered transportation services to State Human Service Agencies if required to do so by the Authority.

E. Other - To provide those public transit or related services that may arise from time to time.

SRTA currently has a contract for transit management and operational services with Union Street Bus Company, Inc. The current contract expires on December 31, 2010. In accordance with current FTA guidelines, SRTA is seeking proposals from experienced firms to provide transportation management services for the period commencing January 1, 2011 through December 31, 2015. Proposed bidders should be aware that SRTA is party to a 13(c) Labor Protection Agreement and, by reference, to a Labor Agreement between the current operator and the Amalgamated Transit Union, Locals 174 and 1037, covering all operators and hourly maintenance personnel which will expire on June 30, 2010.

SRTA owns all the revenue vehicles referred to above, two maintenance locations, two terminals; one in Fall River and one in New Bedford. The New Bedford facility includes two tiers of revenue parking. The Authority owns twenty-five (25) nonrevenue support vehicles and all the materials and supply inventory required for the operation and maintenance of said vehicles.

SCOPE OF SERVICES

The contractor will provide management services required for the efficient operation of SRTA's transit system, maintenance and protection of its equipment and facility under policies, standards and procedures approved by SRTA. The contractor will be required to operate the Authority's terminals, and will be responsible for the maintenance of those facilities. The contractor will provide input into SRTA's capital planning; to include responsibility for the preparation of technical specifications, capital project supervision and procurement when mutually agreed to. The contractor will be required to provide all data and information necessary to meet the Authority's reporting requirements.

The management services provided shall include, but not be limited to:

1. The contractor's employment of a full-time on-site general manager who shall be required to reside within the SRTA service area and who will be responsible for the discharge of the contractor's obligations to the Authority under the contract. This individual should have preferably a minimum of ten (10) years of management experience of which five (5) years must have been in the top management capacity with overall responsibility of system management in the field of public transportation.
2. The contractor, utilizing necessary transit system personnel and the Authority's transportation tangible assets, will have full responsibility for the management of:

- a. Accounting services consisting of a computer based accounting system which is currently in use that performs the disbursing functions and a financial management information system that provides monthly general ledger reports including income statements as the basis for requisition for payment and other financial and operating statements and reports that may be necessary and required by SRTA to support its efforts in securing maximum federal and state and local funding.
- b. Transportation services consisting of routing, scheduling, service supervision and other related duties such as the preparation of public timetables and furnishing of public information.
- c. The maintenance of the Authority's equipment and facilities in accordance with the adopted maintenance program as approved by the FTA.
- d. The monitoring of operational and maintenance performance as input for the planning process and the preparation of technical specifications for capital procurement.
- e. Establishment of safety and security programs based on accepted industry safety and security standards including its relation to individuals and all employees, the conduct of safety meetings, the conduct of safety campaigns, the study of present safety and security equipment, implementation of OSHA rules and regulations, compliance with Massachusetts "Right to Know" laws, as well as ongoing investigations in each incident to maximize available information as reported to insurance carriers. In addition, input in the solicitation of various insurance coverages compatible with the transit industry.
- f. Personnel and labor related services including the direction and supervision of employee relations and employee health programs, training, safety and compensation, the development of labor relations pertaining to working agreements with union employees, the maintaining of working relations in a manner consistent with SRTA's present policy, the conduct of labor negotiation sessions as they pertain to the extension of existing labor agreements or making of new agreements and the handling of all grievances and misunderstandings as they relate to the terms of the Labor Agreement.
- g. Financial management services consisting of purchasing, inventory control, budgeting, forecasting, performance, monitoring and planning, as well as compliance with FTA regulations including the contractor's input of NTD information, application and administration of capital and operating assistance grants, administration of DBE/WBE and Title VI programs and third party contracts, as well as other mandated requirements to include: FTA Drug and Alcohol Regulations, Federal Equal Employment Opportunity Policies, requirements of the Americans with Disabilities Act of 1990, all aspects of the master agreement between the Federal Transit Administration and the Authority and all aspects of the agreement between the

Authority and the Massachusetts Department of Transportation in regards to contract assistance as provided for under MGL 161B.

h. Insurance related duties as follows:

1. Administration of all property and casualty insurance policies including commercial, auto, property and workers compensation
2. Administration of all employee benefits program including health insurance, dental and disability policies
3. Review of financial reports, leases, contracts and other documents to identify potential exposures
4. Negotiation of premiums, terms and conditions of all property/casualty insurance policies and employee benefit contracts
5. Responsible for claim reporting and maintenance as well as monitoring of claim reserves as set by insurers. Also, negotiate claim settlements with insurer.
6. Review and compliance with loss prevention reports with insurance company engineers and assistance with loss control recommendations

GENERAL

SRTA will provide the contractor with all equipment, facilities and operating funds necessary for the operation of the system. The contractor will be responsible for all costs associated with the employment of the resident general manager or any other personnel that the contractor may deem necessary in providing the services as required.

INFORMATION TO BE SUBMITTED AS PART OF THE BIDDER'S PROPOSAL

1. All proposals shall include at minimum, the following:
 - a. Name of firm, address, name of contact person and telephone number. (voice, fax and e-mail)
 - b. Resident management team; A resume is to be submitted of the proposed general manager and any additional management personnel, resident or otherwise, to be provided by the contractor.

Resume should be in detail listing qualifications and accomplishments.

- c. Identify any subcontractors, consultants and/or other support persons to be used in the discharge of the company's obligations under the contract. For each said support person, provide a description of the scope and type of service to be provided, together

with a summary of their experience, qualifications and capabilities and whether or not their cost is included in the overall fee.

- d. State the proposed monthly management fee and detail any and all additional fees or charges for additional services which may be required but not provided for in the contract.
- e. Provide a complete summary of the contractor's transit management knowledge, experience and capabilities. Identify all transit systems presently managed, as well as the name and locations of transit systems previously managed
- f. Provide a written authorization for release of information on all matters together with a complete list of clients with names of contact persons, addresses and telephone numbers and e-mail addresses.
- g. Describe the transit management philosophy to be used, identifying management tools, procedures, and practices.
- h. Describe the management approach to be taken as it relates to SRTA's system with particular attention given to the existing original structure of personnel and labor relations.
- i. Describe the contractor's commitment to applicable state and federal affirmative action, equal employment opportunity and minority business enterprise laws and regulations.
- j. Provide a list of financial references.
- k. Provide proof of insurance for Employment Related Practices Liability of not less than \$3,000,000.00 (The successful bidder shall be required to obtain said insurance)

When describing knowledge and experience as required in b, c, and e above, the contractor should pay particular attention to the following factors:

1. Management of transit systems similar to SRTA in size.
2. The development of equipment specifications and acquisition of equipment and development of specifications and Requests for Proposals for the procurement of insurance coverage.
3. Familiarity with the Commonwealth of Massachusetts Chapter 161B and FTA regulations, procedures and funding requirements.
4. The implementation of transit productivity improvements.

5. Driver training, including safety and security training, accident investigation and sensitivity training.
6. Bus maintenance policies and procedures and experience in the maintenance of fleets comparable to SRTA's present fleet.
7. Scheduling and dispatching.
8. Labor relations and personnel management (a list should be submitted of unions representing the employees of properties previously managed by the contractor).
9. Use of such management tools as microcomputer based management systems.
10. National Transit Database (NTD) accounting and reporting procedures.

CONTRACT

All contractors submitting proposals must recognize that the fixed terms and provisions of a final agreement with SRTA will be subject of negotiations between the parties after SRTA has chosen a contractor with the most advantageous proposal as evaluated in accordance with the described criteria.

EVALUATION CRITERIA

SRTA will use the following criteria in evaluating proposals. The criteria are listed in the order of importance to SRTA.

1. Qualifications and experience of identified management personnel with emphasis on the following:
 - a. Actual experience as a general manager of a similar size fixed route and demand response transit system.
 - b. Experience in labor relations with a labor organization of similar size as SRTA.
 - c. Experience in transit and Paratransit vehicle maintenance.
 - d. Experience in the administration of insurance programs.
 - e. Knowledge of local government structure as defined by MGL 161B.

- f. Knowledge of communities comprising SRTA and their individual, immediate and long range transportation needs.

2. The technical qualifications of the bidder.

- a. General qualifications.
 - b. Experience in top management of similar size transit system.
 - c. Quality of service provided as measured by accepted standards.
 - d. Reputation of the bidder based on industry and other references.
 - e. Experience with applicable Massachusetts safety and environment laws and procedures.
3. Compatibility of the bidder's mass transit philosophy and management approach with SRTA's objectives.
4. Demonstrated management innovations.
5. Proposed management fee.
6. Financial integrity (latest year-end financial report to be submitted)

All proposals received will be reviewed by the Administrator and the Authority's Legal Counsel and they will be submitted to a sub-committee of the Advisory Board who will conduct the evaluation process.

SRTA reserves the right to request additional information from any bidder. SRTA will rank the acceptability of the proposals based on the evaluation criteria. The evaluation of proposals will be completed within sixty (60) days after the opening of bids and a recommendation will be made to the Advisory Board for their approval at their next scheduled meeting.

Contract Negotiations: Upon selection of what SRTA deems to be the most advantageous proposal, it is SRTA's intention to enter into contract negotiations (to be completed within twenty (20) days) with the ultimate goal of developing a fixed price contract for a maximum of (5) years. The contractor's proposal shall form the basis of those negotiations although SRTA reserves the right to negotiate overall aspects of the proposal and the actual contract language. If SRTA is unable to reach an agreement with the selected contractor, it reserves the right to terminate negotiations and pursue alternate courses. Upon completion of negotiations, a recommendation will be forwarded to SRTA's Advisory Board for approval.

SUBMITTING PROPOSALS

Three (3) copies of the proposal should be mailed or delivered to Mr. Joseph L. Cosentino, Administrator, Southeastern Regional Transit Authority, 700 Pleasant Street, 1st Floor, New Bedford, MA 02740, prior to the bid opening date of August 10, 2010 at 12:00 P.M.. Noontime, Eastern Daylight Savings Time, when all proposals will be publicly opened and the name of the proposed bidders will be read aloud. All proposals must be sealed, envelopes clearly marked: "Proposals for Management Services". Any correspondence or questions regarding your request for proposal should be directed to the above address no later than August 10, 2010

Disadvantaged business enterprises women business enterprises and other minorities will be afforded full opportunity to submit proposals in response to the request and will not be discriminated against on the grounds of race, color, sex, national origin or veteran status in consideration of an award. Any contract entered into will include provisions to ensure compliance with all applicable civil rights regulations.

Issuance of the request for proposal does not commit SRTA to award a contract, to pay any costs incurred in the process of the proposal in preparation of the proposal in response to this request or to contract for services or supplies. SRTA reserves the right to reject any and all proposals, in whole or in part, and to readvertise or discontinue this process without prejudice.

PROCUREMENT PROTEST PROCEDURES

Part 1. SRTA Procedures

A. General

Protests will only be accepted by SRTA from prospective bidders or offerers whose direct economic interest would be affected by the award of the contract or refusal to award a contract. SRTA will consider all such protests whether submitted before or after the award of a contract. All protests must be in writing and conform to the following requirements

1. Be concise and legally arranged
2. Provide name, address and telephone numbers of protestor.
3. Identification of the solicitation or contract number
4. Provide a clear and detailed statement of the legal and factual grounds of the protest including copies of all relevant documents.
5. A statement as to what relief is requested.

B. Protest Before Award

1. General

Protests before award must be submitted within the time frame as specified below. If the written protest is not received by the time specified the bid or evaluation process shall continue.

2. Protest Before Bid Opening

Protest addressing the adequacy of the Invitation for Bid, RFP's including the pre-award procedure, the Instruction to Bidders, General terms and conditions, specifications and scope of work must be filed with SRTA not less than seven (7) full working days before bid opening. Thereafter, all issues and appeals are deemed waived by all interested parties

Upon receipt of the written protest, SRTA will determine if the bid opening should be postponed. If the bid opening is postponed, SRTA will immediately contact prime contractors and subcontractors who have been furnished a copy of the specifications that a protest has been filed and the bid opening is postponed until a final decision is issued. Any appropriate addenda will be issued regarding a rescheduling of the bid opening. Any protest may be withdrawn at any time before SRTA has issued its decision.

3. Protest After Bid Opening

A protest of a decision of SRTA to award a contract to a prime contractor or a subcontractor must conform to A. above and be received by SRTA within ten (10) full working days of its decision. Thereafter, such issues are deemed waived by all interested parties.

In addition, when a protest against the making of an award is received and SRTA determines to withhold the award pending disposition of the protest, the bidders (Whose bids might become eligible for award shall be requested, before expiration of the time for acceptance of their bids, to extend the time for acceptance (with consent of sureties if any) to avoid the need for readvertising.

When a written protest against making an award is received, the award shall not be made until five (5) days after the matter is received. SRTA may, however, proceed to make an award if it determines that:

- a) The items to procured are urgently requested or,
 - b) Delivery or performance will be unduly delayed by failure to make the award promptly,
- or
- c) Failure to make a prompt award wise otherwise cause undue harm to SRTA, the Commonwealth or the Federal Government. In the event that SRTA determines that an award is to be made during the five (5) day period during the pendency of a protest, FTA will be notified prior to the making of the award. FTA reserves the right not to participate in such procurements. If an award is made the appropriate documents will be prepared to explain the need for the award with notice going to the protestor and other concerned parties.

C. Protest After Award

Protest against an award must be filed with SRTA within five (5) full working days immediately following the award. This protest shall conform to the requirements of A above. Thereafter, such issues are deemed waived by all interested parties. Although the number of persons involved in or affected by the filing of a protest may be limited to instances where an award has been made the contractor shall be furnished with the notice of protest and related information. Also, if it appears that the award may be invalidated and a delay in receiving the supplies or service is not prejudicial to SRTA's interest, SRTA shall consider a mutual agreement with the contractor to suspend performance on a no-cost basis.

D. SRTA's Decision of the Protest

SRTA shall render its decision in writing within fourteen (14) working days from the receipt of the written protest and shall provide notice of this decision to all interested parties. Following an adverse decision by SRTA the protestor may file a protest with the Federal Transit Administration (FTA)

PART 11 FTA REVIEW OF PROTEST

- a. FTA will only review protests regarding the alleged failure of SRTA to have written protest procedures or alleged failure to follow such procedures.
- b. Alleged violations on other grounds are under the jurisdiction of the appropriate State or Local administrative or judicial authorities. Alleged violations of a specific Federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with that Federal regulation See e.g., Buy America Requirements 49 CFR Part 661 (Section 6612:15) Participation by Minority Business Enterprises in Department of Transportation Programs 49 CFR Section 23:7'1.
- c. FTA will only review protests submitted by an interested party as defined in paragraph B below.

A. REMEDY

FTA's remedy for SRTA's failure to have written protest procedures or failure to follow such procedure is limited to requiring SRTA to develop such procedures, if necessary, and follow such procedures in reviewing the protest at issue. If SRTA desires FTA financial participation in the contract in question. In instances where SRTA has awarded to another bidder or offeror prior to FTAs decision on the protest, FTA may refuse to participate in funding the contract.

B. DEFINITIONS

For purposes of this Bid Protest Procedure, the following definitions apply:

- a. Days: refers to working days of the Federal Government
- b. File or submit refers to the date of receipt by the FTA
- c. Interested Parties means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract
- d. Bid includes the term "Offer" or proposal as used in the context of negotiated procurements.

C. TIME FOR FILING

- a. Protestors shall file a protest with FTA not later than five (5) days after a final decision is rendered under the SRTA protest procedures. In instances where the protestor alleges that SRTA failed to make a final determination on the protest, protestors shall file a protest with FTA not later that five (5) days after the protestor knew or should have known of the SRTA failure to render a final determination on the protest.
- b. SRTA shall not award a contract for five (5) days following its decision on a bid protest except in accordance with the provisions and limitations of subparagraphs G. After the five (5) days, SRTA shall confirm with FTA that FTA has not received a protest on the contract in question.

D. SUBMISSION OF PROTEST TO FTA

- a. Protests should be filed with the appropriate FTA Regional Office with a concurrent copy to SRTA
- b. The Protest filed with FTA shall:
 - (1) Include the name and address of the protestor
 - (2) Identify SRTA, project number and the number of the correct solicitation

- (3) Contain a statement of the grounds for protest and any supporting documentation. This should detail the alleged failure to follow protest procedures or the alleged failure to have procedures and be fully supported to the extent possible.

E. SRTA RESPONSE

- a. FTA shall notify SRTA in a timely manner of the receipt of a protest. FTA shall instruct SRTA to notify the contractor of the protest if award has been made or, if no award has been made, to notify all interested parties. SRTA shall instruct all who received such notice that they may communicate further directly with FTA.
- b. SRTA shall submit the following information no later than ten (10) days after receipt of notification by FTA of the protest.
 - (1) a copy of SRTA's protest procedure
 - (2) a description of the process followed concerning the protestor's protest, and
 - (3) any supporting documentation
- c. SRTA shall provide the protestor with a copy of the above submission.

F. PROTESTOR COMMENTS

The protestor must submit any comments on the SRTA submission not later than ten (10) days after the protestor's receipt of SRTA submission.

G. WITHHOLDING OF AWARD

When a protest has been timely filed with SRTA before award, SRTA shall not make any award prior to five (5) days after the resolution of the protest, or if a protest has been filed with FTA during the pendency of the protest, unless SRTA determines that:

- a. The items to be procured are urgently required
- b. Delivery or performance will be unduly delayed by failure to make the award promptly or
- c. Failure to make prompt award will otherwise cause undue harm to SRTA or the Federal Government

In the event that SRTA determines that the award is to be made during the five (5) day period. Following the local protest decision or the pendency of a protest, SRTA shall notify SRTA prior to making such award. FTA will not review the sufficiency of SRTA's determination to award during the pendency of a protest prior to FTA bid protest decision. FTA reserves the right not to participate in any contract awarded during the pendency of a protest.

H. FTA ACTION

Upon receipt of the submission, FTA will either request further information or a conference among the parties, or will render a decision on the protest.

The prospective bidder must comply with all of the following Standard Contract Clauses both in their bid for Management Service and with any subsequent contracts or purchase with third party entities.

Federally Required and Other Model Contract Clauses

1. [Fly America Requirements](#)
2. [Buy America Requirements](#)
3. [Charter Bus and School Bus Requirements](#)
4. [Cargo Preference Requirements](#)
5. [Seismic Safety Requirements](#)
6. [Energy Conservation Requirements](#)
7. [Clean Water Requirements](#)
8. [Lobbying](#)
9. [Access to Records and Reports](#)
10. [Federal Changes](#)
11. [Clean Air](#)
12. [Recycled Products](#)
13. [Contract Work Hours and Safety Standards Act](#)
14. [Copeland Anti-Kickback Act](#)
15. [No Government Obligation to Third Parties](#)
16. [Program Fraud and False or Fraudulent Statements and Related Acts](#)
17. [Termination](#)
18. [Government-wide Debarment and Suspension \(Nonprocurement\)](#)
19. [Privacy Act](#)
20. [Civil Rights Requirements](#)
21. [Breaches and Dispute Resolution](#)
22. [Transit Employee Protective Agreements](#)
23. [Disadvantaged Business Enterprises \(DBE\)](#)
24. [State and Local Law Disclaimer](#)
25. [Incorporation of Federal Transit Administration \(FTA\) Terms](#)
26. [Drug and Alcohol Testing](#)

FLY AMERICA REQUIREMENTS

49 U.S.C. §40118 41 CFR Part 301-10

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and sub-recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

BUY AMERICA REQUIREMENTS

49 U.S.C. 5323(j) 49 CFR Part 661

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Certification requirement for procurement of steel, iron, or manufactured products.

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

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.

Date _____

Signature _____

Company Name _____

Title _____

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

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D) and the applicable regulations in 49 CFR 661.7.

Date _____

Signature _____

Company Name _____

Title _____

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

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

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 CFR Part 661.

Date _____

Signature _____

Company Name _____

Title _____

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

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

Date _____

Signature _____

Company Name _____

Title _____

CHARTER BUS REQUIREMENTS

49 U.S.C. 5323(d) 49 CFR Part 604

The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and sub-recipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

SCHOOL BUS REQUIREMENTS

49 U.S.C. 5323(F) 49 CFR Part 605

Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and sub-recipients may not use federally funded equipment, vehicles, or facilities.

CARGO PREFERENCE REQUIREMENTS

46 U.S.C. 1241 46 CFR Part 381

Use of United States-Flag Vessels - The contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq. 49 CFR Part 18

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

LOBBYING

31 U.S.C. 1352 49 CFR Part 19 49 CFR Part 20

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements *(To be submitted with each bid or offer exceeding \$100,000)*

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.* .)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325 18 CFR 18.36 (j) 49 CFR 633.17

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2. Where the Purchaser is a State and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where any Purchaser which is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

7. FTA does not require the inclusion of these requirements in subcontracts.

FEDERAL CHANGES

49 CFR Part 18

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the [Master Agreement](#) between Purchaser and FTA , as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

CLEAN AIR

42 U.S.C. 7401 et seq 40 CFR 15.61 49 CFR Part 18

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

40 U.S.C. §§ 327 -333 (1999) 29 C.F.R. § 5 (1999)

29 C.F.R. § 1926 (1998)

(1) **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore

shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$ 10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - The **Southeastern Regional Transit Authority** shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

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

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

No Obligation by the Federal Government.

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS

AND RELATED ACTS

**31 U.S.C. 3801 et seq. 49 CFR Part 31 18 U.S.C. 1001
49 U.S.C. 5307**

Program Fraud and False or Fraudulent Statements or Related Acts.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq . and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the

penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

TERMINATION

49 U.S.C. Part 18

FTA Circular 4220.1F

a. Termination for Convenience (General Provision) The **Southeastern Regional Transit Authority** may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Southeastern Regional Transit Authority to be paid the Contractor. If the Contractor has any property in its possession belonging to the Southeastern Regional Transit Authority, the Contractor will account for the same, and dispose of it in the manner the Southeastern Regional Transit Authority directs.

b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the **Southeastern Regional Transit Authority** may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the **Southeastern Regional Transit Authority** that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the **Southeastern Regional Transit Authority**, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) The **Southeastern Regional Transit Authority** in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to **Southeastern Regional Transit Authority** 's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from **Southeastern Regional Transit Authority** setting forth the nature of said breach or default, **Southeastern Regional Transit Authority** shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude **Southeastern Regional Transit Authority** from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that **Southeastern Regional Transit Authority** elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by **Southeastern Regional Transit Authority** shall not limit **Southeastern Regional Transit Authority** 's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) The **Southeastern Regional Transit Authority** by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the **Southeastern Regional Transit Authority** shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the **Southeastern Regional Transit Authority** may terminate this contract for default. The **Southeastern Regional Transit Authority** shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

g. Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the **Southeastern Regional Transit Authority** may terminate this contract for default. The **Southeastern Regional Transit Authority** shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the **Southeastern Regional Transit Authority**, protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and **Southeastern Regional Transit Authority** shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the **Southeastern Regional Transit Authority**

h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the **Southeastern Regional Transit Authority** may terminate this contract for default. The **Southeastern Regional Transit Authority** shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. the contractor, within [10] days from the beginning of any delay, notifies the **Southeastern Regional Transit Authority** in writing of the causes of delay. If in the judgment of the **Southeastern Regional Transit Authority**, the delay is excusable, the time for completing the work shall be extended. The judgment of the **Southeastern Regional Transit Authority** shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

j. Termination for Convenience of Default (Cost-Type Contracts) The **Southeastern Regional Transit Authority**) may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of the **Southeastern Regional Transit Authority** or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the **Southeastern Regional Transit Authority** or property supplied to the Contractor by the **Southeastern Regional Transit Authority** If the termination is for default, the **Southeastern Regional Transit Authority** may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the **Southeastern Regional Transit Authority** and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the **Southeastern Regional Transit Authority**), the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the Southeastern Regional Transit Authority determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the Southeastern Regional Transit Authority, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

49 CFR Part 29 Executive Order 12549

Instructions for Certification

- 1. By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below .**
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, Southeastern Regional Transit Authority may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to Southeastern Regional Transit Authority if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact Southeastern Regional Transit Authority for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by Southeastern Regional Transit Authority.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.

8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, Southeastern Regional Transit Authority may pursue available remedies including suspension and/or debarment.

"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction"

(1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

PRIVACY ACT

5 U.S.C. 552

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000

42 U.S.C. § 6102, 42 U.S.C. § 12112

42 U.S.C. § 12132, 49 U.S.C. § 5332

29 CFR Part 1630, 41 CFR Parts 60 et seq.

Civil Rights - The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332,

the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

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

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

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

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18

FTA Circular 4220.1F

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of Southeastern Regional Transit Authority's [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by Southeastern Regional Transit Authority, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Southeastern Regional Transit Authority and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Southeastern Regional Transit Authority is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Southeastern Regional Transit Authority, (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS

49 U.S.C. § 5310, § 5311, and § 5333

29 CFR Part 215

(1) The Contractor agrees to comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C.

§ 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C.

§ 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 CFR Part 23

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 3%. A separate contract goal has not been established for this procurement.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as **Southeastern Regional Transit Authority** deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The successful bidder will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the Southeastern Regional Transit Authority. In addition, the contractor may not hold retainage from its subcontractors is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed

e. The contractor must promptly notify **Southeastern Regional Transit Authority** whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of **Southeastern Regional Transit Authority**

STATE AND LOCAL LAW DISCLAIMER

The use of many of the suggested clauses are not governed by Federal law, but are significantly affected by State law. The language of the suggested clauses may need to be modified depending on state law, and that before the suggested clauses are used in the grantees procurement documents, the grantees should consult with their local attorney.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

FTA Circular 4220.1E

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in [FTA Circular 4220.1E](#) are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

DRUG AND ALCOHOL TESTING

49 U.S.C. §5331 49 CFR Parts 653 and 654

Drug and Alcohol Testing

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of (name of State), or the (insert name of grantee), to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before (insert date) and to submit the Management Information System (MIS) reports before (insert date before March 15) to (insert title and address of person responsible for receiving information). To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

EVALUATION SHEET
SRTA 2011-01
MANAGEMENT SERVICES

Proposer: _____

Name of Evaluator: _____ Date: _____

EVALUATION

1. Qualifications and experience of identified management personnel with emphasis on the following:

- | | |
|--|----------|
| a. Actual experience as a general manager of a similar size fixed route and demand response transit system. | 15 _____ |
| b. Experience in labor relations with a labor organization of similar size as SRTA. | 15 _____ |
| c. Experience in transit and para-transit vehicle maintenance. | 10 _____ |
| d. Experience in the administration of insurance programs. | 5 _____ |
| e. Knowledge of local government structure as defined by MGL 161B.. | 5 _____ |
| f. Knowledge of communities comprising SRTA and their individual, immediate and long range transportation needs. | 10 _____ |

Maximum possible score **60** _____

2. The technical qualifications of the bidder:

- | | |
|---|----------|
| a. General qualifications | 10 _____ |
| b. Experience in top management of similar sized transit systems | 10 _____ |
| c. Quality of service provided as measured by accepted standards | 10 _____ |
| d. Reputation of the bidder based on industry and other references. | 10 _____ |

e. Experience with applicable Massachusetts safety and environmental laws and procedures. 10

Maximum possible score 50

3. Compatibility of the bidder's mass transit philosophy and management approach with SRTA's objectives. 35

4. Demonstrated management innovations 25

5. Proposed management fee.

Year I: _____

Year II: _____

Year III: _____

Year IV: _____

Year V: _____

Maximum possible score 25

6. Financial integrity 15

GRAND TOTAL (Max.) 210

COMMENTS: _____

**PROPOSAL FOR MANAGEMENT SERVICES
SRTA 2011-01**

**TO: Southeastern Regional Transit Authority
700 Pleasant Street, 1st Floor
New Bedford, MA 02740**

Attention: Joseph L. Cosentino, Administrator

The undersigned hereby, offers and agrees to furnish the management services as stipulated in the Authority's Request for Proposal for Management Services RFP 2011-01 in accordance with the specifications and information on file at the office of the Administrator of SRTA at 700 Pleasant Street 1st Floor, New Bedford, Massachusetts, copies of which are attached hereto.

<u>Services Provided</u>		<u>MANAGEMENT FEE</u> <u>(On a per year basis)</u>
Fixed Route and Demand Responsive Managerial services (including ancillary services as provided for in RFP SRTA 10-05) as described in attached proposal annualized monthly fee.	YEAR I	\$
	YEAR II	\$
	YEAR III	\$
	YEAR IV	\$
	YEAR V	\$
	TOTAL COST OF 5 YEAR PROPOSAL	\$ _____ =====

(Additional pages may be attached if needed.)

The undersigned understands and agrees that if the within proposal is made conditional in any way, is other than an unequivocal offer to furnish, SRTA may regard the same as unresponsive if it, in its sole discretion, deems it in its best interest to do so.

The undersigned further agrees to supply any evidence or certifications of its existence, good standing or authorization to make this bid or enter into any contract resulting there from reasonable requests from SRTA and that its failure to supply the same shall render this bid unresponsive.

NAME OF FIRM

ADDRESS

AUTHORIZED SIGNATURE TITLE

CERTIFICATE
INELIGIBLE BIDDERS LIST

RE: RFP SRTA 2011-01

_____ Certifies that neither it, nor any of its subcontractors used in
(Name of Company)
performing this contract, are listed on the list of ineligible contractors maintained by the
Comptroller General of the United States.

DATE: _____ BY: _____