

# SOUTHEASTERN REGIONAL TRANSIT AUTHORITY

Acting on behalf of 10 Massachusetts  
Regional Transit Authorities

## **REQUEST FOR PROPOSALS**

### **SRTA-2014-01**

### **FOR**

## **PURCHASE AND DELIVERY OF**

## **HEAVY-DUTY BUSES**

<b>Date of Issuance:</b>	<b>December 2, 2013</b>
<b>Pre-Proposal Meeting:</b>	<b>January 10, 2014</b>
<b>Request for Questions and Clarifications Due:</b>	<b>January 24, 2014</b>
<b>Proposals Due:</b>	<b>February 24, 2014</b>

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**Administrator**  
**Southeastern Regional Transit Authority**  
**700 Pleasant Street, Suite 320**  
**New Bedford, MA 02740**  
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REQUEST FOR PROPOSALS  
SRTA 2014-01

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**NOTICE REQUEST FOR PROPOSALS  
FOR  
PURCHASE AND DELIVERY OF HEAVY-DUTY BUSES  
FOR  
THE SOUTHEASTERN REGIONAL TRANSIT AUTHORITY AND OTHER SPECIFIED AGENCIES  
SRTA 2014-01**

**NOTICE IS HEREBY GIVEN THAT sealed proposals will be received by the Southeastern Regional Transit Authority (SRTA), on behalf of a consortium of regional transit authorities, at 700 Pleasant Street Suite 320, New Bedford, MA 02740, until 2:00 PM, February 24, 2014, for Purchase and Delivery of Heavy-Duty Transit Buses for the Southeastern Regional Transit Authority and Other Specified Agencies in accordance with requirements of the Contract Documents.**

Additional Consortium Members

Berkshire Regional Transit Authority (BRTA)	Brockton Area Transit Authority (BAT)
Franklin Regional Transit Authority (FRTA)	Greater Attleboro – Taunton Regional Transit Authority (GATRA)
Lowell Regional Transit Authority (LRTA)	Merrimack Valley Regional Transit Authority (MVRTA)
Montachusett Regional Transit Authority (MART)	Worcester Regional Transit Authority (WRTA)
Cape Cod Regional Transit Authority (CCRTA)	Nantucket Regional Transit Authority (NRTA)

Proposals shall be submitted on the “Cost Proposal Forms” attached to the specifications and plainly marked with the Proposer’s Name and the procurement number.

Proposals will be examined and reported to each Participating Agency within one hundred twenty (120) days after the proposal opening. A Pre-Proposal Conference will be held at 10:30 AM on January 10, 2014 in the Board Room of the SRTA at 700 Pleasant Street Suite 320, New Bedford, MA 02740.

The selection committee reserves the right to reject any and all proposals or to waive any irregularity or informalities in any proposal or in the solicitation procedure. No proposer may withdraw its proposal for a period of one hundred twenty (120) days after the proposals are opened. Each proposer will be notified of award.

The performance of any contract which may arise from this proposal is subject to the requirements of Title VI of the Civil Rights Act of 1964 and all applicable equal employment requirements as may be generally applicable to this type of solicitation. DBE/MBE/WBE firms will be afforded full opportunity to submit proposals and will not be subject to discrimination on the basis of race, color, sex or national origin in the LRTA’s consideration of an award of Contract. This contract and any contract arising from this solicitation will be subject to financial assistance agreements from the Federal Transit Administration (FTA) and the Massachusetts Department of Transportation (MDOT). All proposers will be required to certify that they are not on the United States Comptroller General’s list of ineligible contractors.

In connection with the performance of this Contract, full compliance with all applicable Safety and Health Standards, and with all applicable laws and regulations concerning Equal Employment Opportunity and Disadvantaged Business Enterprises will be required. The successful proposer will cooperate with each Consortium Member in meeting its commitments and goals with regard to the maximum utilization of Disadvantaged Business Enterprises and will use its best efforts to ensure that such business enterprises shall have the maximum opportunity to compete for subcontract work, if any, under this Contract.

Attention is directed to the General Conditions, Special Provisions and Technical Specifications appearing with the Proposal Documents for complete details and proposal requirements. These documents, including proposal forms, bonds, and this Notice shall be considered as part of any Contract made pursuant to this solicitation. Copies of the Proposal Documents may be obtained on-line at [www.srtabus.com](http://www.srtabus.com) or at the SRTA Office, 700 Pleasant Street Suite 320, New Bedford, MA 02740.

December 2, 2013  
Erik B. Rousseau, Administrator

**1. GENERAL INFORMATION**

The Southeastern Regional Transit Authority (SRTA) invites qualified firms to submit Proposals in response to this Request for Proposals (RFP) for the production and delivery of 30, 35 and 40 foot Heavy-Duty Low Floor transit buses. It is issued on behalf of a consortium of Massachusetts Regional Transit Authorities. The Contract will be for a five-year base term. SRTA will award one or more contracts which will include all vehicle sizes / types. Each participating transit agency will award its own contract (s) separately.

This Solicitation will enable SRTA and other procuring public agencies as noted below, to standardize the future selection of buses, realize a better price through volume discounts and reduce the requirement of an as-needed or annual procurement process when grant funding is made available.

**2. PROCURING AGENCIES**

SRTA's initial purchase will comprise of a minimum of 5 and a maximum of 8 buses for SRTA (Lead Agency). Participating Consortium Members are identified below. Consortium Member agency will award its own individual contract based on to the successful Proposer selected by SRTA. Each contract awarded by a Consortium Member shall be awarded within the proposal validity period. SRTA shall incur no financial responsibility or other liability in connection with contracts entered into between the Contractor and a Consortium Member. The Consortium Member shall accept sole responsibility for placing orders and making payments to the Contractor.

Lead Agency: Southeastern Regional Transit Authority (SRTA)  
700 Pleasant Street Suite 320,  
New Bedford, MA 02740

- Consortium Members:
1. Berkshire Regional Transit Authority (BRTA)  
1 Columbus Ave.,  
Pittsfield, MA 01201
  2. Brockton Area Transit Authority (BAT)  
155 Court St.  
Brockton, MA 02302-4608
  3. Franklin Regional Transit Authority (FRTA)  
The John W. Olver Transit Center  
12 Olive Street, Suite 1,  
Greenfield, MA 01301
  4. Greater Attleboro – Taunton Regional Transit Authority (GATRA)  
10 Oak Street  
Taunton, MA 02780-3950
  5. Lowell Regional Transit Authority (LRTA)  
145 Thorndike St.  
Lowell, MA 01852
  6. Merrimack Valley Regional Transit Authority (MVRTA)  
85 Railroad Avenue  
Haverhill, Ma. 01835
  7. Montachusett Regional Transit Authority (MART)  
1427 Water Street  
Fitchburg, MA. 01835
  8. Worcester Regional Transit Authority (WRTA)  
60 Foster Street

Worcester, MA 01608

9. Nantucket Regional Transit Authority (NRTA)  
3 East Chestnut Street  
Nantucket, MA 02554
10. Cape Cod Regional Transit Authority (CCRTA)  
215 Lyannough Road  
Hyannis, Ma. 02601

### **3. BUS PROCUREMENT REQUIREMENTS**

The SRTA, along with the Consortium Members, at their sole discretion, may procure up to the maximum number of buses stated in this RFP, based on each agency's requirements and available funding. The needs of individual participating agencies, in terms of minimum and maximum quantities of buses during the five-year contract term, are set forth in Special Provision 17, Consortium Member Vehicle Quantities (p. 41). Prices quoted for buses and optional equipment shall remain firm for 180 days; price adjustment allowances and procedures are set forth in Section 13.T "PPI Index Escalator/De-escalator."

### **4. PUBLIC AGENCY PARTICIPATION/ASSIGNABILITY**

In the event that SRTA or any Consortium Member does not purchase its maximum bus allotment, due to unforeseen circumstances or lack of funding, each agency may assign the remainder of its bus allotment (up to its maximum requirements set forth herein) to another Consortium Member or other Massachusetts Regional Transit Authorities (RTA's). This right of assignment shall remain in force over the five-year contract term. This right of assignment will not change the quantity or types of buses that may be ordered pursuant to this solicitation. The SRTA shall incur no financial responsibility or other liability in connection with contracts entered into between the Contractor and another public agency. The public agency shall accept sole responsibility for placing orders or making payments to the Contractor.

### **5. SCOPE OF WORK**

The successful Proposer (Contractor) will furnish the SRTA an initial order of a minimum of 5 and a maximum of 8 Heavy-Duty Low Floor Transit Buses in accordance with the delivery schedule set forth in Section 13.K "Delivery/Time for Performance", with the final quantity of each size bus to be determined at the time of contract award. In the event that all of the participating Consortium Members will submit purchase orders with the successful Proposer for their individual bus size, the successful Proposer (Contractor) will also furnish Consortia Members a minimum of 133 and a maximum of 198 within the contract term in accordance with specifications as contained in the Technical Specifications. Quantities are defined in Section 17 of this document.

### **6. PRE-PROPOSAL CONFERENCE**

A Pre-Proposal Conference will be held commencing promptly at **10:30 a.m. on Friday, January 10, 2014** at the SRTA's Administrative Offices, 700 Pleasant Street Suite 320, New Bedford, MA 02740

The Pre-Proposal Conference will take approximately one hour. Members of the SRTA's staff will be available to answer general questions pertaining to the RFP and the specifications herein. Any questions that may require staff research to answer or that will otherwise modify the meaning or intent of this RFP shall be submitted to the SRTA in writing as described in Section 7 hereunder. This Pre-Proposal Conference is not mandatory, but attendance is **highly recommended**.

### **7. SUBMISSION OF QUESTIONS AND REQUESTS FOR CLARIFICATION**

If any person submitting a Proposal is in doubt as to the true meaning of any part of this RFP, or if additional information is required, they shall submit a written request for information and clarification thereof.

Any questions or requests for clarification regarding this RFP shall be mailed to Mary Ellen DeFrias, Grants

Manager, at the address listed on the cover page of this RFP, faxed to 508-993-9196, or emailed to

[procurement@srtabus.com](mailto:procurement@srtabus.com) no later than **January 24, 2014 at 2:00 p.m.** The SRTA's reply to questions and requests for clarification will be posted to its Website ([www.srtabus.com](http://www.srtabus.com)) by February 3, 2014. Each prospective Proposer receiving these Solicitation Documents will be sent an electronic notification of the posting of clarifications, however, Proposers are responsible for monitoring the SRTA's Website on a regular basis. Any modification to the RFP requirements will be by written Addenda only issued by the Administrator. Oral interpretations will not be binding on the SRTA or consortium members.

## **8. CONFORMITY TO DESIGN SPECIFICATIONS/SUBSTITUTIONS**

It is understood that specifying a brand name or specific types of components and/or equipment in these specifications shall not relieve the Proposer from its responsibility to furnish the end product in accordance with the warranty and contractual requirements. The Proposer is responsible for notifying SRTA of any inappropriate brand names, or types of components and/or equipment that may be called for in these specifications, and to propose a suitable substitute for consideration. Unless otherwise specifically provided in the specifications, reference to any equipment, material, article or patented process by trade name, make or catalog number shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. A Proposer may, at its option, use any equipment, material, article, or process which, in the judgment of SRTA, is equal to that designated. To do so a Proposer shall furnish, at its own expense, all test results, technical data and background information required by the SRTA in making the determination as to whether the proposed equipment, material or article or process, in the judgment of the Administrator is equal to that designated.

SRTA shall be the sole judge as to the comparative quality and suitability of alternative equipment, articles, material or process and its decision shall be final.

## **9. REQUEST FOR APPROVED EQUALS**

### A. Explanation to Proposers

Any explanation desired by an proposer regarding the meaning or interpretation of the Request for Proposals, drawings, specification, etc., must be requested in writing by January 24, 2014. Any interpretation or change made will be in the form of an addendum to the Request for Proposals, drawings, specifications, etc. or information letter, as appropriate, and will be furnished to all prospective proposers. Receipts of Amendments by the proposer must be acknowledged on the Amendment Form (Appendix II). Oral explanations or instructions given before the award of the Contract will not be binding upon SRTA or any consortium member.

### B. Pricing

The price to be quoted in any proposal will include all items of labor, materials, tools, equipment and other costs necessary to fully complete manufacture and delivery. Any items omitted which are clearly necessary for the completion of equipment and assembly will be considered a portion of such specifications, although not directly specified. The price quoted will not change for a period of ninety (90) days, beginning from the date the proposal is received.

### C. Approved Equal

- a. In all cases, materials must be furnished as specified. Where brand names or specific items are used in the specifications, consider the term "or approved equal" to follow.
- b. Any unapproved deviations, exceptions, substitutions, alternates or conditional qualifications contained in a proposal may be cause for its rejection.
- c. If potential proposers believe that their product is an equal to the product specified, they must submit a written request to SRTA in triplicate and this request will be approved or rejected by the Authority at least fifteen (15) calendar days prior to the scheduled opening of the proposals. Requests for approved equals must be received by SRTA IN WRITING BY JANUARY 24, 2013.

- d. Any request for an approved equal must be fully supported with catalog information, specifications and illustrations or other pertinent information as evidence that the substitute offered is equal to or better than the specification. Where an approved equal is requested, the proposer must clearly demonstrate the equality of this product to the Authority to determine whether the proposer's product is or is not equal to that specified.
- e. Further changes in the specifications will be made by addendum.

#### D. Correspondence

The proposer is required to show on all correspondence with SRTA, the following: "Heavy Duty Buses." Communication with SRTA should be forwarded to:

Mr. Erik B. Rousseau, Administrator,  
Southeastern Regional Transit Authority,  
700 Pleasant Street, Suite 320  
New Bedford, Massachusetts 02740  
Telephone (508) 997-6767  
Fax (508) 993-9196  
email: [procurement@srtabus.com](mailto:procurement@srtabus.com)

Correspondence will not be accepted by any other party. Any correspondence sent via fax is to be followed by mailing a hard copy to the address above.

#### E. Samples

Samples of items when called for must be furnished free of expense, and if not destroyed may, upon request, be returned at the Proposer's expense. Each individual sample must be labeled with the Proposer's name, Manufacturer's brand name and number, proposal number and item reference. Samples of successful proposers items **may remain on file for the term of the contract. Request for return of samples shall** be accompanied by instructions which include shipping authorization and name of carrier and must be received within ninety (90) days after proposal date. If instructions are not received within this time, the commodities shall be disposed of by SRTA.

#### F. Failure to Submit Offer

If no offer is to be submitted, do not return the solicitation unless otherwise specified. A letter or postcard should be sent to the SRTA Administrator advising whether future solicitations for the type of supplies or services covered by this solicitation are desired.

### 10. **PROPOSAL CONTENT AND SUBMISSION**

#### A. **Proposal Length and Format**

The intent of this RFP is to encourage responses that clearly communicate the Proposer's understanding of the Scope of Services and its approach to successfully completing the tasks as required under this RFP. It is not the intent of SRTA to open the proposals publically.

Proposals should provide this information in a concise, well-organized manner and should follow the format outlined below:

#### B. **Proposal Content**

Proposers are required to submit the following information. Failure to respond to each item may render the Proposal non-responsive, causing it to be rejected. Contents of Proposals shall be as follows:

1. **Cover Letter** - The cover letter shall introduce the Proposer's team and summarize the main qualifications of the firm; indicate that the Contractor is prepared to sign the sample Agreement for Services (sample attached as Appendix A), if a contract is awarded; agrees to bind the Contractor to the proposed Scope of Work and associated



cost proposal for **180 days**; and confirm that is able to comply with the insurance and bonding requirements.

2. **Table of Contents** - The Table of Contents shall list all items provided in the proposal submission.

3. **Proposers Contact Info** - Firm name, business address, telephone number, fax number, email address.

4. **Business Description** - Date of establishment of business and type of organization (individual, partnership, corporation, etc.). A narrative of the Proposers manufacturing facilities, parts distribution locations, and service support offices must also be included.

5. **Understanding of the Scope of Work** - In response to Section 5, Scope of Work, provide a clear and concise description of the services and equipment to be provided by your company. Describe the overall design to be used in carrying out the project and accomplishing its objectives. Each of the major tasks or activities to be undertaken as a means of reaching such objectives, must be specifically identified. Explain or display the essential points of activity in a time sequence explaining or showing the amount of time allotted to each activity. Provide sample production timelines and delivery schedule for each of the buses proposed.

6. **Proposer's Qualifications** - Provide a concise statement covering the history of your company under current and any prior names (include number of years in business under each name), your major projects or activities both in general and projects similar to the subject of the Proposal, the populations you have served, the relationship of this project to your corporate purpose, and why you feel that your company is best suited to fulfill the requirements of the Proposal.

a. A brief description listing experience that your company has had in providing similar equipment to other transit agencies. Provide a list of at least five customer references that are public transit agencies currently operating the proposed vehicles. The customer references shall include the agency's name, the contact name and title, telephone number, and email address of the person most familiar with the contract; the dollar amount of the contract; and the dates that these programs/projects were completed. Provide detailed information of the vehicles delivered to the references submitted to substantiate your previous experience.

b. A brief description of the experience and qualifications of the proposed key staff members assigned to this project and what percentage of their time will be devoted to the project. Show the function in the project for each person. Additionally, the Proposer must specify where the staff will be located and identify the project manager.

c. Information displaying past fiscal responsibility such as independent audits or a list of projects completed within the budget. Proposer must submit a copy of their latest audited financial statement completed by a certified public accountant within the past 18 months. Proposer must submit a list of commitments, and potential commitments which may affect assets, lines of credit, guarantor letters, or otherwise affect the Proposer's ability to perform the Contract.

d. A statement as to any judgments, litigations, licensing violations, or other violations, outstanding or resolved, associated with your company.

7. **Technical Understanding** - Provide all data relevant to the proposed vehicle offered in your proposal including:

- a. Description of the bus offered including completion of the Bus Description provided in the Technical Specifications.
- b. Listing of all request for approved equals from the SRTA's contract documents and specifications,
- c. Engineering drawings and layouts as needed to respond to specific items identified within the SRTA's Technical Specifications. Proposers will also submit any other supporting documentation that it deems appropriate which will aid the SRTA in evaluating the technical merit of the Proposer's proposal in each factor.
- d. Copies of the Altoona Bus Test report for the vehicle offered, including all issues reported by the testing agency and any corrective actions taken by the manufacturer as a result of the test, and any subsequent testing completed to confirm the adequacy of any modifications.
- e. Proposer shall submit representative samples of all Maintenance, Parts, and related Service Manuals that cover the buses offered in the proposal. Examples of Service and Part update bulletins, electrical diagrams, and Bus Operator's manuals will also be submitted.
- f. Proposers shall submit information regarding the structure, locations, and policies of the Parts Service organization that will support the bus offered, including listing the nearest Parts Service facility to the SRTA.
- g. Proposers shall submit in their technical proposal, details of their hybrid diesel/electric drive system, and CNG option as offered.
- h. Proposer shall also provide evidence of its ability to meet the delivery requirements, as well as a list of all deliveries executed within the past three (3) years showing the number of units involved, if the buses were delivered per the contract terms, and a listing of any late deliveries.

8. **Cost Proposal** - The contractors proposed cost for this contract(s) will be evaluated based on the unit prices for each size/type of vehicle the proposer wishes to be considered for by the SRTA. Complete and separate price proposal forms and packages must be submitted for each vehicle size/type being offered, and the option cost for supplying a Hybrid Diesel/Electric drive system, and a Compressed Natural Gas system as entered as "An Additional Cost per Bus" on Appendix B Cost Proposal. Participating agencies will notify the Contractor of any desired options when placing bus orders. The sum for Buses, and manuals and training package, will be determined by adding the entries and entering the sum on Line E "Total Base Offer per Bus." Prices quoted for these options shall remain firm for 180 days; price adjustment allowances and procedures are set forth in Section 13.T "PPI Index Escalator/De-escalator." The optional Hybrid drive and Compressed Natural Gas system will not be considered in the determination of the "Total Base Offer per Bus." However, in the event that such options are ordered by any agency, such options will be subject to a cost / price analysis by the awarding agency. In order to assist the agency with such analysis, the successful Proposer agrees to provide required documentation in support of its quoted prices. The Proposer shall break down the cost of each bus configuration as follows:

- A. Base Offer per Bus
- B. Delivery Cost per Bus to Massachusetts - (not included in the calculation of Total Base Offer per Bus.)

The Total Base Offer per Bus shall include all costs required to perform the Scope of Work, including overhead, profit, services, insurance required manuals, tests, certifications, and any and all other applicable costs of the Cost Proposal.

The costs for spare components will not be used in the evaluation of the Cost Proposal, and SRTA and / or the Consortium Members, reserves the right to negotiate a final spare parts package, including final quantities and costs at the time of contract award.

9. **Cost Proposal – Optional Equipment** - The Proposer will submit on a separate form, a listing of all available optional equipment with unit prices for the buses offered in the proposal. Participating agencies will notify the Contractor of any desired options when placing bus orders. Prices quoted for optional equipment shall remain firm for 180 days; price adjustment allowances and procedures are set forth in Section 13.T “PPI Index Escalator/De-escalator.” Such optional equipment costs will not be used in the Cost Proposal Evaluation described in Section 11.C. A Cost/Price analysis will be performed as appropriate, by the awarding agency. In order to assist the agency with such analysis, the successful Proposer agrees to provide required documentation in support of its quoted prices.. The final contract award and pricing for the buses may be negotiated by each separate agency and/or Consortium Members to include available optional equipment as it deems necessary.

### C. **Proposal Submission**

Proposer shall submit a total of **ONE original and FIVE hard copies plus Ten electronic pdf copies on a CD** of their Proposal in a sealed package identifying the RFP number (SRTA 2014-01) to:

Southeastern Regional Transit Authority  
Attn: Erik B. Rousseau, Administrator  
700 Pleasant Street, Suite 320  
New Bedford, MA 02740

Proposals must be received in the Administrative Office **by or before 2:00 p.m. on Friday, February 24, 2014.** Proposals received after this time or at any other location will not be accepted. Proposals will be prepared and presented at no cost to the SRTA.

This RFP does not commit the SRTA or any consortium member to award a Contract, to pay any costs incurred in the preparation of Proposals drafted in response to this request, or to procure or contract for any services in connection with this request. The SRTA reserves the right to accept or reject any or all Proposals received in response to this request, to negotiate with any qualified individual or firm, or to modify or cancel in part or in its entirety this RFP if it is in the best interest of the SRTA to do so.

## 11. **EVALUATION OF PROPOSALS AND SELECTION PROCESS**

### A. **Evaluation/Selection Committee**

An Evaluation/Selection Committee (Committee), which may include SRTA staff, consortium members, and possibly one or more outside experts, will review and screen the Proposals submitted according to the pre-established criteria as set forth below.

### B. **Technical Evaluation Criteria**

Proposals will be evaluated using the following principal selection criteria:

#### 1. **Product Design and Performance** **20 points**

The information provided by the Proposer in its technical submittal relating to the buses to be provided will be utilized to evaluate the proposal in relation to this factor. Failure to complete the required submissions or list all requested deviations on the proper form with adequate supporting data will impact the final point determination of this section. The number and significance of the requested deviations from the SRTA’s specifications, which are intended to describe a bus design that provides for fleet commonality and standardization of parts, training and related support costs will impact the final point determination of this section. Vehicle construction and system design, as well as documented reliability may be used in this evaluation, as well as other design and

performance elements of the components which comprise those systems. At a minimum, test results, safety and maintenance factors, and cost of normal operation for the bus design and system components proposed may be considered in determining a final value for this factor.

**2. Proposer's Experience and Qualifications 40 points**

The Committee will consider the capability and experience of the Proposer as presented in the Proposal or as is determined by review of information available

from references or other resources. The evaluation may look at the Proposer's overall organizational and financial capabilities and consider key components such as organizational reporting structure, quality control, quality assurance, research and development, technical, training and parts support, response time, product capabilities, ability to furnish multiple bus configurations, bonding capacity, and financial history, as well as other considerations in reaching a final point determination. The Committee may also look at judgments, liens, fleet defect history, warranty claims, and the steps that the manufacturer took to resolve these concerns in assessing the overall reputation of the manufacturer. The Committee will also review the proposed delivery schedule and its ability to fulfill the delivery requirements in Section 13.K "Delivery/Time for Performance", including past delivery performance.

**Maximum Possible Technical Points = 80 points**

**C. Cost Proposal Evaluation**

As described below, the proposed cost as submitted by the Proposer on the SRTA's form provided herewith as Appendix B is valued at 20%. The Contractor is **required** to use Appendix B, without alteration, for submittal of their Cost Proposal. **Please DO NOT use your own forms.**

The cost will be evaluated in the following manner:

**1. Cost Proposal Criteria 40 points**

- a. The Cost Proposal criteria will be based on the "Total Base Offer per Bus", for each bus type, Line E of Appendix B as noted in Section 10.B.8 "Cost Proposal."
- b. The lowest average Cost Proposal will receive 40 points. Every other Proposal will be given points proportionately in relation to the lowest price. This point total will be calculated by dividing the lowest price by the total price of the Proposal being evaluated and the result multiplied by the maximum weight for price (20 points) to arrive at a Cost Proposal score.

$$\text{Example: } \frac{\text{Lowest Proposed Price}}{\text{Proposer's Proposed Price}} \times \text{Total Points for Price} = \text{Cost Proposal Score}$$

The application of the above formula will result in a uniform assignment of points relative to the criterion of price.

**D. Evaluation Methodology**

The maximum number of points achievable in each of the aforementioned areas is as follows:

	<u>Weight</u>
1. Product Design and Performance	20
2. Manufacturer's Qualifications and Experience	40
3. Cost Proposal	<u>40</u>

**TOTAL POSSIBLE POINTS 100**

**E. Interviews**

Following the initial review and screening of Proposals, one or more Proposers may be invited to participate in the final selection process. The final selection process may include the submission of additional information and/or participation in an oral interview. Interviews if held, are tentatively scheduled for the week of **March 10, 2014** and will be at the SRTA's Administrative Offices, 700 Pleasant Street, Suite 320, New Bedford, Massachusetts

**F. Revised Proposals, Discussions, Negotiations, Best and Final Offers**

The SRTA reserves the right to accept or reject any or all Proposals received as a result of this RFP, to negotiate with any individual or qualified firm, to modify or cancel in part or in its entirety the RFP, to request revised Proposals, to request further information, or to request Best and Final Offers if it is in the best interest of the SRTA to do so. The SRTA, however, may award a contract without negotiations, so Proposers are encouraged to submit their best Proposal.

**G. Contract Award**

The Committee will make a recommendation of award of a contract to the SRTA's appropriate authorized representative. All Proposers will be notified of the recommended award by mail. No contract will be in force until issuance of a written Notice to Proceed issued by the Administrator, or designee. SRTA will award one or more contracts, which will include a vehicle sizes / types.

This RFP does not commit the SRTA or consortium members to award a contract. SRTA and the Consortium members reserve the right to waive informalities and irregularities in the Proposals received, or to reject all bids submitted.

**12. PROTEST PROCEDURES**

*The Protest Procedure is in Appendix Q.*

**13. OTHER REQUIREMENTS**

**A. Agreement**

The Contractor selected to perform the work outlined in this RFP will be required to execute an Agreement with the SRTA, which describes the Scope of Work to be performed, the schedule for completion of work, compensation, insurance requirements, and other pertinent provisions. This contract shall follow the form of the Sample Agreement attached as Appendix A. Contractors are directed to review in particular the indemnification and insurance requirements set forth in the Agreement. Each Consortium member will initiate their own Agreement.

Submittal of a Proposal shall be deemed acceptance of all the terms set forth in the sample Agreement unless the Proposer includes with their Proposal, in writing, any amendments or exceptions requested by the Proposer to the Agreement.

**B. Performance Requirements**

The Contractor shall furnish at its own expense a Performance Bond completed on the included form, for each RTA (Appendix C). The bond shall be in the sum equal to 100% of the total amount for the initial order of buses as a guarantee of good faith on behalf of the Contractor that the terms of this contract shall be complied with in every particular. Said bond shall remain in full force and effect until delivery and acceptance of all buses and all project deliverables in the initial order (maintenance manuals, parts manuals, documentation).

The Consortium may require the Contractor to deliver an additional Performance Bond upon order of any additional buses purchased pursuant to Section 3 not later than 30 days after receipt of written notification of an order for each bus(es), as required throughout the term of any Contract resulting from

this solicitation.

**C. Disadvantaged Business Enterprises (DBE)**

The SRTA is a recipient of Federal financial assistance from the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA), and is committed to and has adopted a Disadvantaged Business Enterprise (DBE) Program for contracts in accordance with Federal regulations 49 CFR Part 26, issued by the U.S. Department of Transportation (DOT).

It is the policy of the SRTA to ensure non-discrimination in the award and administration of all contracts and to create a level playing field on which DBE can compete fairly for contracts and subcontracts relating to the SRTA's construction, procurement and professional services activities. To this end, the SRTA has developed procedures to remove barriers to DBE participation in the bidding and award process and to assist DBEs to develop and compete successfully outside of the DBE Program. In connection with the performance of this contract, the Contractor will cooperate with the SRTA in meeting these commitments and objectives.

Pursuant to 49 CFR Part 26.13, and as a material term of any agreement with the SRTA, the Contractor hereby makes the following assurance and agrees to include this assurance in any agreements it makes with subcontractors in the performance of this contract:

"The Contractor or subcontractor 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 U.S. DOT-assisted contracts. Failure by the Contractor or subcontractor 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 the SRTA deems appropriate."

Although no specific DBE goal has been established for this Contract, Proposers shall cooperate with the SRTA in meeting its commitments and objectives with regards to ensuring non-discrimination in the award and administration of SRTA contracts and shall use its best efforts to ensure that barriers to participation of DBE do not exist. To better help the SRTA and Consortium members record and encourage DBE participation, **all Proposers must complete, sign, and submit with their Proposal the DBE forms included herewith as Appendix E. This form will be shared with all Consortium members.**

By submitting a Proposal, a Proposer is deemed to have made the foregoing assurance and to be bound by its terms.

**D. DBE Requirements for Transit Vehicle Manufacturers**

Pursuant to Title 49 C.F.R., part 26.49, a Proposer, as a condition of being authorized to respond to this solicitation, must certify by completing the Transit Vehicle Manufacturer's (TVM) Certification (Appendix O) that it has on file with the FTA an approved or not disapproved DBE subcontracting participation goal.

**E. Confidentiality**

The Massachusetts Public Records Law (M.G.L. C. 4 sec. 7 (26)) mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the content of any request for explanation, exception, or substitution, response to these specifications, protest, or any other written communication between the SRTA and Proposer shall be available to the public.

If Proposer believes any communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer shall request that the SRTA withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. **Proposer may not designate its**

**entire Proposal or Bid as confidential. Additionally, Proposer may not designate its Cost Proposal or Bid forms as confidential.**

If Proposer requests that the SRTA withhold from disclosure information identified as confidential, and the SRTA complies with the Proposer's request, Proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless the SRTA from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the Proposer information), and pay any and all cost and expenses related to the withholding of Proposer information. Proposer shall not make a claim, sue or maintain any legal action against the SRTA or its directors, officers, employees or agents in connection with the withholding from disclosure of Proposer information.

If Proposer does not request that the SRTA withhold from disclosure information identified as confidential, the SRTA shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to the SRTA.

**F. Pre-Manufacturing Meeting**

After award of a contract, the Contractor's and Consortium's representatives shall schedule a meeting at the bus manufacturing plant prior to the start of manufacture of buses to review the Contract provisions and the Technical Specifications. This meeting shall provide clarification of the terms, conditions, and requirements of this Contract. At this meeting, the Contractor will be required to submit a project time-line for each Consortium member, which reflects the actual schedule regarding design, manufacturing, testing, and delivery of the buses.

**G. Material and Workmanship**

All materials, parts, and equipment furnished by the Contractor shall be new, high grade, and free from defects. Workmanship shall be in accordance with generally accepted industry standards. The Contractor shall establish and maintain quality assurance policies and procedures to ensure compliance with these specifications, and as further described in Section 13.H hereunder. The Contractor shall extend to the SRTA full access to its surveillance and monitor the Contractor's compliance with its established quality assurance procedures and the SRTA's Technical and other specifications.

Materials, parts and workmanship not conforming to the requirements of these specifications shall be considered defective and will be subject to rejection. If the Contractor fails to replace any defective or damaged work or material after reasonable notice, the SRTA may cause such work or materials to be replaced. The replacement expense shall be deducted from the amount to be paid to the Contractor.

**H. Quality Assurance**

The Contractor shall establish and maintain an effective in-plant quality assurance team. It shall be a specifically defined unit and should report directly to the Contractor's top management.

1. The quality assurance team shall exercise quality control over all phases of production, from initiation of design through manufacture and preparation for delivery. The team shall also control the quality of supplied articles.
2. The quality assurance team shall have the authority and responsibility for reliability, quality control, inspection planning, establishment of the quality control system, and acceptance/rejection of materials and manufactured articles in the production of the buses.
3. The quality assurance team shall verify inspection operation instructions to ascertain that the manufactured product meets all prescribed requirements and specifications.
4. The quality assurance team shall maintain and use records and data essential to the effective operation of its program. These records and data shall be available for review by the SRTA's Resident Inspectors (Section 13.I, hereunder).

Inspection and test records for this procurement shall be available for a minimum of three years after inspections and tests are completed.

5. The quality assurance team shall detect and promptly assure correction of any conditions that may result in the production of defective buses. These conditions may occur in design, purchases, manufacture, tests, or operations that culminate in defective supplies, services, facilities, technical data, or standards.
6. The Contractor shall maintain drawings and other documentation that completely describe a qualified bus that meets all of the options and special requirements of this RFP. The quality assurance team shall verify that each bus is manufactured in accordance with these controlled drawings and documentation.
7. The Contractor shall provide and maintain the necessary gauges and other measuring and testing devices for use by the quality assurance team to verify that the buses conform to all specification requirements. These devices shall be calibrated at established periods against certified measurement standards that have known valid relationships to national standards.
8. When production jigs, fixtures, tooling masters, templates, patterns, and other devices are used as media of inspection, they shall be proved for accuracy at formally established intervals and adjusted, replaced, or repaired as required to maintain quality.
9. The Contractor's gauges and other measuring and testing devices shall be made available for use by the SRTA's Resident Inspectors (Section 13.I, hereunder) to verify that the buses conform to all specification requirements. If necessary, the contractor's personnel shall be made available to operate the devices and to verify their condition and accuracy.
10. The Contractor shall ensure that all basic production operations, as well as all other processing and fabricating, are performed under controlled conditions. Establishment of these controlled conditions shall be based on the documented work instructions, adequate production equipment, and special working environments, if necessary.
11. A system for final inspection and testing of completed buses shall be provided by the quality assurance team. It shall measure the overall quality of each completed bus.
12. The quality assurance team shall monitor the Contractor's system for controlling nonconforming materials. The system shall include procedures for identification, segregation and disposition of such materials.
13. Statistical analyses, tests, and other quality control procedures may be used when appropriate in the quality assurance process.
14. A system shall be maintained by the quality assurance team for identifying the inspection status of components and completed buses. Identification may include cards, tags or other normal quality control devices.

**I. SRTA's Resident Inspectors**

SRTA maintains the right to be represented at the Contractor's plant by Resident Inspectors and/or SRTA personnel at SRTA's sole expense. These SRTA representatives shall conduct, among other things, audits required under the Buy America element of this Contract, as defined in Section 14.L, and they shall inspect the daily progress of vehicles under fabrication at the Contractor's manufacturing facilities to ascertain that fabrication and materials comply with these contract specifications. Resident Inspectors shall monitor, in the Contractor's plant, the manufacture of buses built under this Contract. The Resident



Inspectors shall be authorized to approve the pre-delivery acceptance tests and to release the buses for delivery. Upon request to the Contractor's Quality Assurance Manager, the Resident Inspectors shall have access to the Contractor's quality assurance files related to this RFP. These files shall include drawings, material standards, parts lists, inspection processing and reports, and records of defects.

Not less than 30 days prior to the beginning of bus manufacture, the Resident Inspectors shall meet with the Contractor's Quality Assurance Manager. They shall review the inspection procedures and checklists. The Resident Inspectors may begin monitoring bus construction activities three days prior to the start of bus fabrication.

**J. Inspection System**

The quality assurance team shall establish, maintain, and periodically audit a fully-documented inspection system. The system shall prescribe inspection and test of materials, work in progress, and completed articles. At a minimum, it shall include the following controls:

1. Inspection stations shall be at the best locations to provide for the work content and characteristics to be inspected. Inspection stations shall provide the facilities and equipment to inspect structural, electrical, hydraulic, and other components and assemblies for compliance with the design requirements. Inspection stations shall also be at the best locations to inspect or test characteristics before they are concealed by subsequent fabrication or assembly operations. These locations shall minimally include underbody structure completion, body framing completion, body prior to preparation, engine installation completion, underbody dress-up and completion, bus prior to final paint touch-up, complete bus water test prior to road test, and bus final road test completion.

2. The Contractor shall have sufficiently trained inspectors to ensure that all materials, components, and assemblies are inspected for conformance with the qualified bus design.

3. Acceptance, rework, or rejection identification (tags, forms, or other types of identifications approved by the SRТА) shall be attached to inspected articles. Articles that have been accepted as a result of approved materials review actions shall be identified. Articles that have been reworked to specified drawing configurations shall not require special identification. Articles rejected as unsuitable or scrap shall be plainly marked and controlled to prevent installation on the bus.

Articles that become obsolete as a result of engineering changes or other actions shall be controlled to prevent unauthorized assembly or installation. Unusable articles shall be isolated and then scrapped.

4. Discrepancies noted by the Contractor or Resident Inspector during assembly shall be entered by the inspection personnel on a record that accompanies the major component, subassembly, or bus from start of assembly through final inspection. Actions shall be taken to correct discrepancies or deficiencies in the manufacturing process, procedures or other conditions that cause articles to be in nonconformity with the requirements of the Contract specifications. The inspection personnel shall verify the corrective actions and mark the discrepancy record. If discrepancies cannot be corrected by replacing the nonconforming materials, the SRТА shall approve the modification, repair, or method of correction to the extent that the Contract specifications are affected.

5. The quality assurance team shall establish and maintain a quality control audit program. Records of this program shall be subject to review by the SRТА upon its request.

**K. Delivery/Time for Performance**

**1. Production Buses**

Delivery of coaches shall be no later than 365 calendar days after the close of the calendar quarter (i.e., March 31, June 30, September 30, December 31) in which the Consortium Member's purchase order is

delivered to the Contractor. Delivery shall be made on Monday through Friday, Federal and State holidays excluded, between the hours of 8:00AM and 4:00PM local time.

The Contractor shall prepay all costs of delivery of each bus, shall deliver all material at its own cost and expense to this designated location, and shall bear all risk of damage to or loss of the bus while in transit. The SRTA shall reimburse Contractor for delivery costs of the buses in accordance with the proposed price set forth in Appendix B, Section 2.D. Delivery charges and delivery locations to other procuring agencies shall be determined at time of contract award with each individual agency.

The Contractor shall prepare all buses for shipment in such a manner as to protect them from damage in transit, and shall be responsible for and repair all damaged parts or replace all losses incurred in the course of delivery of the equipment to the SRTA's Maintenance Facility as specified in Section 13.K.5. When necessary, heavy parts shall be mounted on skids or crated, and all parts or materials that might otherwise be lost shall be boxed or wired in bundles. All parts shall be plainly marked for identification and destination

## **2. Delivery Schedule for Consortium Orders**

The final delivery schedule for all buses ordered by Consortium members during the term of this contract will be mutually negotiated directly between the ordering agency and the Contractor at the time of award.

## **3. Service**

Prior to delivery, each vehicle shall be completely serviced by the Contractor or by an authorized dealer of the Contractor in a service shop within the state of Massachusetts. Service shall include not less than the following: lubrication, wash, body condition and other checks and adjustments required for proper complete servicing of a new vehicle. Each vehicle shall be ready for placement in service upon delivery and acceptance.

## **4. Damage by Contractor**

All risk of damage or loss to the buses up to the time of delivery to the SRTA at the specified location shall be the responsibility of the Contractor. Any materials or equipment found to be damaged or defective at the time of delivery shall be repaired, replaced, or corrected at no additional cost to the SRTA. The SRTA may deduct any costs it incurs for such repairs, replacement, or correction from any payments due if Contractor fails to comply with the requirements of this section.

## **5. Summary of items to be provided upon delivery**

The following items must be furnished by the Contractor upon delivery of each vehicle:

- (a) all warranty verification vouchers, certificates, or coupons.
- (b) operator's manual for vehicle and all add-on equipment.
- (c) drawings showing wiring of auxiliary circuits and/or modifications of standard vehicle wiring which would not be included in the standard vehicle maintenance manual.
- (d) completely filled fuel tank(s).
- (e) vehicles(s) free of dealer signs and manufacturer emblems.
- (f) assurance of compliance with manufacturer's pre-delivery service.
- (g) All required documents for securing vehicle title completely executed by the manufacturer/dealer and ready for submission to the Department of Motor Vehicles (i.e., MA Certified Weight Certificate, Vehicle Certificate

of Origin). The manufacturer warrants that the title will pass to the SRTA free of any liens, mortgages and encumbrances, financing statements, claims, and demands of any character.

**L. Inspection/Acceptance/Payment**

SRTA, on behalf of the Consortium, will acknowledge the receipt of the bus or spare component in writing and will undertake a 10 calendar day period for inspection and testing of the bus. The SRTA will notify the Contractor in writing within 2 calendar days following the inspection and testing period as to whether the buses or spare components have been accepted.

If the SRTA determines that the buses or spare components are not in conformity with the specification requirements, or that there are defects or deficiencies in the equipment, the SRTA shall notify the Contractor of such deficiencies or nonconformity in writing, within the aforementioned 2-day period. The Contractor shall commence to rectify any nonconformity and correct any defects or deficiencies in the bus within 48 hours of receipt of the SRTA's written notification. All defect or deficiency corrections must be completed within five business days from the time of correction commencement. The SRTA shall not accept the bus until all corrections which are addressed in the SRTA's written notice have been made by the Contractor. At such time as the Contractor has made all necessary corrections to the satisfaction of SRTA, SRTA shall issue the Contractor a written notice of final acceptance. All consortium members intends to pay the Contractor within thirty (30) calendar days of the final acceptance of each of the coaches or spare components delivered to the SRTA.

At the SRTA's sole option it may elect to conditionally accept buses with outstanding repairs if such repairs are minor in nature and allow the SRTA to continue to complete final preparation of the buses for placement into revenue service. If such conditional acceptance is given, the SRTA will pay the invoice for each coach, less a retention of 5% of the invoice cost for each bus that is conditionally accepted. The retention will be held until all outstanding acceptance issues have been resolved to the satisfaction of the SRTA and the SRTA issues a final acceptance notice for each bus.

**M. Liquidated Damages**

TIME IS OF THE ESSENCE IN THIS CONTRACT. the Contractor shall pay to the SRTA the sum of \$125.00 per day for each and every calendar day that the Contractor fails to provide the required services described in these solicitation documents, within the time periods specified in Sections 13.K.1 and 2 subject to extensions granted thereto in writing by the SRTA. The SRTA may deduct, at its option, the amount of liquidated damages from any money due or to become due to the Contractor under this Contract.

The Contractor will be granted an extension of time and will not be assessed with liquidated damages for any delay beyond the time periods described in these specifications for delays caused by acts of God or of the public enemy, fire, floods, epidemics, quarantine, restrictions, strikes, labor disputes, shortage of materials and freight embargoes, or other causes deemed by the SRTA to be beyond the reasonable control of the Contractor, provided Contractor notifies the Administrator, acting on behalf of the Consortium, in writing of the causes of delay within five calendar days from the beginning of any such delay. The Administrator shall ascertain the nature of the delay and determine whether an extension of time is warranted, which determination shall be final and conclusive. The Contractor has the burden of proof that the delay was beyond its control.

**N. Warranty**

The Contractor shall warrant to the SRTA, its successors and assigns, that the title to the material, supplies or equipment covered by the Contract, when delivered to the SRTA or to its successor or assigns, is free from all liens and encumbrances. The Contractor guarantees and warrants that all work performed and items supplied under this Contract shall (1) conform to the Technical Specifications and all other requirements of this RFP; (2) fulfill its design functions and be fit for both its ordinary and intended purposes; (3) be free of all patent and latent defects in design, materials and workmanship; and (4) perform satisfactorily.

It is understood and agreed that by acceptance of this warranty and the acceptance of materials or supplies to be manufactured or assembled pursuant to these Specifications, the SRTA does not waive any warranty, either expressed or implied.

**1. Complete Bus**

A basic bus warranty shall commence on the date the bus is placed into service by the SRTA and shall continue in effect thereafter for a period of one year or 50,000 miles whichever occurs first.

**2. Propulsion Systems and Major Sub Systems**

Specific subsystems and components of the coaches furnished under this Contract are warranted and guaranteed to be free from defects in design, material and workmanship for the period of time and/or mileage as shown below after each vehicle is placed into revenue operation.

ITEM	<u>WHICHEVER OCCURS FIRST</u>		
	YEARS	OR	MILEAGE
1 Engine*	5		300,000
2 Hybrid Propulsion System**	5		300,000
3 Engine Accessories***	2		100,000
4 Transmission	3		200,000
5 Drive Axle	2		100,000
6 Brake System (excluding friction material)	2		50,000
7 Air Conditioning	2		N/A
8 Wheelchair Lift System	2		N/A
9 Electronic Destination Sign	2		N/A
10 Electronic Destination Sign Fade	5		N/A
11 Electric or Air Starter	3		N/A
12 Leaks (water leaks from bus washer or rain)	6		200,000

\* Engine warranty shall cover all items provided in the engine manufacturer's standard warranty under the 5 year/300,000 period, with appropriate limitations and prorating for subcomponents such as turbocharger, injectors, etc. Proposers shall provide engine warranty details with their technical proposal.

\*\* If Hybrid Propulsion System option is awarded by any Consortium Members.

\*\*\* Engine accessories include radiator, power steering pump, booster pump, air compressor and alternators.

The SRTA reserves the right to request any and all Proposers to provide manufacturer's standard warranty information. To the extent that a manufacturer's standard warranty on the above items provides longer time periods or mileage limits stated above, the warranty that provides the longer time period or mileage limit shall apply to that particular item.

**3. Body and Chassis Structure**

The structural integrity of any coach furnished under this Contract shall be warranted for a full one hundred percent (100%) on both parts and labor to be free from material, design and workmanship for a period of up to twelve (12) years or up to five hundred thousand (500,000) miles, whichever occurs first, after the vehicle is placed into revenue operation with no proration. A defect in the structural integrity of the basic body is defined as defects in the chassis, body and/or frame, suspension and axles, which results in any premature fatigue.

**4. Progressive Damage**

The Contractor shall be responsible for any and all consequential or progressive damages caused by defective parts or components. The Contractor shall assume all costs and expenses associated with repair or replacement; including component replacement, removal, re-installation, and any and all costs of shipment, including all towing expenses.

**5. Coaches Removed From Service Due To Warranty Failure**

Coaches which have been removed from service due to a warranty failure for periods exceeding seven (7) days shall have the warranty time extended for the time the coach was not in service.

**6. Voiding of Warranty**

The warranty shall not apply to any part or component of the coach that has been subject to misuse, negligence, accident, or that has been repaired or altered in any way so as to affect adversely its performance or reliability, except insofar as such repairs were in accordance with the Contractor's maintenance manuals and the workmanship was in accordance with the recognized standards of the industry. The warranty shall also be void if the SRTA fails to conduct normal inspections and scheduled preventive maintenance procedures. Contractor shall provide a recommendation as to specific inspection and preventive maintenance procedures which could be incorporated into the SRTA's Preventive Maintenance Program thirty (30) calendar days after award for preliminary review and shall provide a final form no later than thirty (30) calendar days prior to delivery of the second bus.

**7. Exceptions to Warranty**

The warranty shall not apply to scheduled maintenance items, items furnished by the SRTA such as radios, fareboxes and other auxiliary equipment, except insofar as such equipment may be damaged by the failure of a part of a component for which the Contractor is responsible.

**8. Detection and Correction of Defects**

Where the SRTA detects a minor defect within the warranty period, SRTA may elect to repair such defect and submit a form for reimbursement in accordance with paragraph 15 hereunder.

If the SRTA detects a major defect within the warranty periods, the SRTA at its sole option, may elect to repair such defect and submit a form for reimbursement in accordance with paragraph 15 hereunder, or may elect to notify the Contractor. Within three (3) working days after receipt of notification, the Contractor's representative shall agree with the SRTA's determination as to the most appropriate scope and course for the repairs to be performed under the warranty, or reserve judgment until the subsystem or component is inspected by the Contractor's representative or is removed and examined at the SRTA's property. Where the Contractor requests the component be inspected, Contractor's representative shall inspect such component within forty-eight (48) hours. At that time, Contractor may suggest the appropriate course of action for the prompt repair of the subsystem or component shall be mutually resolved between the SRTA and the Contractor. Where Contractor performs repair work necessary to effect the repair all work shall commence within seven (7) working days after the Contractor receives notification. If the SRTA does not agree with the Contractor's suggestion as to the scope and/or course of the repairs, the SRTA reserves the right to commence with the repairs and submit for reimbursement in accordance with paragraph 15 hereunder.

**9. Fleet Defects**

A fleet defect is defined as the failure of or a deficiency in identical systems or components of the coach caused by defective design, material or workmanship in twenty percent (20%) of the base quantity of coaches delivered under this Contract. In the event of a fleet defect during the warranty period, the Contractor will furnish promptly all necessary labor and material to affect such repairs and modifications for every vehicle delivered under the Contract pursuant to the terms and conditions of this warranty and at Contractor's sole cost and expense.

After correcting the defect, the Contractor shall promptly undertake and complete a work program reasonably designed to prevent the occurrence of the same defect in all other coaches purchased under this Contract. The work program shall include inspections and/or correction of the potential or defective parts in all of the coaches.

Fleet defect repairs and modifications shall also be applied to units that are no longer covered under warranty, but only if they are still within three years or 36,000 miles from the in-service date.

The warranty period on items determined to be fleet defects shall be extended in accordance with Section 13.N.5 "Coaches Removed From Service Due To Warranty Failure."

**10. Modifications**

Modifications or changes made to strengthen or correct a defect or deficiency on a coach shall be made to all coaches purchased under this Contract at Contractor's sole cost and expense.

**11. Single Representative**

The Contractor shall designate a single representative through which warranties shall be handled. The representatives shall meet as needed with the SRTA's representative, on behalf of the Consortium, for review of repairs and claims. The representative shall handle all facets of warranty processing and warranty material handling. Failure of the Contractor to meet with the SRTA will not relieve their obligation to comply with all warranty requirements set forth in the contract, or to reimburse the SRTA for repairs made during the warranty period.

**12. Repair Performance**

The SRTA may require the Contractor or its designated representative to perform warranty-covered repairs. The work may be done by the SRTA's personnel with reimbursement by the Contractor in accordance with paragraph 15 hereunder. The Consortium shall determine who performs repairs at its sole option.

**13. Repair by Contractor**

If the SRTA requires or mutually agrees for the Contractor to perform warranty-covered repairs, the Contractor's representative must begin work necessary to effect repairs within seven (7) calendar days after receiving notification of a defect from the SRTA. The SRTA shall make the coach available to the Contractor's representative to complete timely repairs.

Any warranty work performed under this Contract shall be completed within seven (7) calendar days after the Contractor has begun repairs on the coach that has been removed from revenue service due to a warranty defect. If repairs are not completed within the specified time periods, the SRTA may assess liquidated damages pursuant to Section 13.M "Liquidated Damages."

In the event the Contractor fails to promptly make the necessary repairs and replacements, the SRTA may undertake such necessary repairs and replacements and the Contractor shall reimburse the SRTA for all such related costs and expenses, including any charges for overhead.

The Contractor shall bear total responsibility for costs and expenses for furnishings all labor, parts, tools, materials and space as required to complete the repairs and/or replacements. At the SRTA's sole discretion, the Contractor may be required to perform the work off SRTA property. The Contractor shall be responsible for any costs associated with transporting the coach to and from SRTA property. Where a coach is towed, Contractor shall pay for towing charges. Location of repair shall not be further than 50 miles from the coach delivery location unless mutually agreed upon on a case- by-case basis.

**14. Repair by the SRTA**

Parts Used – If the Consortium performs the warranty-covered repairs, it shall correct or repair the defect and any related defects using Contractor-specified spare parts available from its own stock or those supplied by the Contractor specifically for these repairs. The SRTA shall determine whether or not a component should be repaired or replaced. Every sixty (60) days, or at a period to be mutually agreed upon, reports of repairs covered by this warranty shall be submitted by the SRTA to the Contractor for reimbursement or replacement of parts in accordance with paragraph 15 hereunder.

Contractor Supplied Parts – The SRTA may request that the Contractor supply new parts for warranty-covered repairs being performed by the SRTA. These parts shall be prepared by Contractor and shipped to the SRTA from any source selected by the Contractor within fourteen (14) calendar days of receipt of the request for said parts.

Defective Components Return – The Contractor may request that parts covered by the warranty be returned to the manufacturing plant. Request for return of defective parts/components must be made within thirty (30) calendar days after submittal of Warranty Claim. SRTA may request Contractor to verify that part/component is defective prior to shipment. The total cost of verification and shipment shall be paid by the Contractor. Materials will be returned freight collect.

Should the Contractor find that the part/component was not defective after it has been returned to the Contractor, Contractor shall notify SRTA and obtain disposition instructions for the part/component. Should SRTA request that part/component be returned to SRTA, SRTA shall pay for shipping cost.

## 15. Reimbursements

Labor – The SRTA shall be reimbursed by the Contractor for labor. The reimbursement amount shall be determined by multiplying the number of work hours actually required to diagnose and correct the defect by the current labor rate (inclusive of benefits) in effect at the time of repair, plus forty percent (40%) overhead and administrative charges.

Parts – The SRTA shall be reimbursed by the Contractor for defective parts and for parts that must be replaced to correct the defect. The reimbursement amount shall be the actual SRTA cost of the part(s) at the time of repair calculated from the SRTA's purchase order or inventory charge-out ledger and shall include taxes where applicable plus fifteen percent (15%) handling costs.

Other – The cost of towing the coach, if such action is necessary, shall also be reimbursable, whether done by SRTA employees or by an outside contractor. Towing reimbursement shall remain in effect throughout the time periods set forth in paragraphs 1 and 2 above.

Method – Warranty reimbursement shall be made through a warranty claim form. SRTA will provide the following information on such form:

SRTA coach number affected	SRTA repair code
Date defect detected	Total claim value
Mileage	SRTA work order number
Labor hours and labor costs	Defect
Description of parts used and price	Repair
SRTA part number	

All other information requested by Contractor shall be Contractor's responsibility. Contractor shall reimburse SRTA by negotiable check within sixty (60) calendar days of receiving a valid Warranty Claim. Meetings between the SRTA and the Contractor's representative shall be held on at least a quarterly basis if there are outstanding warranty claims and payments.

## 16. Warranty After Replacement/Repair

If any component or subsystem is repaired, rebuilt, or replaced by the Contractor or by the SRTA's personnel, the subsystem shall have the unexpired warranty period of the original subsystem.

## 17. Effect of Delay

In the event that, during the warranty period, repairs and/or modifications on all or any coach made necessary by defective design, material or workmanship are not completed due to lack of material or inability to provide the proper repair, or by the Contractor's neglect, delay time shall not be considered as part of the warranty period and the warranty period shall be extended by the period of the delay.

**18. Disclaimer**

Nothing in these requirements, conditions, or specifications, including the SRTA's right to a complete inspection prior to acceptance of the vehicles, shall constitute a disclaimer to or limit, negate, exclude, or modify in any way any warranty created hereunder.

It is understood and agreed that by establishing this warranty provision, by outlining the Technical Specifications and the Contract Documents, and by inspecting and accepting each bus, the SRTA does not waive (a) any warranty, either expressed or implied, which is created pursuant to this Agreement or by law, or (b) any other liability of the Contractor that may arise under applicable law.

**O. Technical Assistance**

The Contractor shall maintain and make available to the SRTA upon request, the technical services of competent engineers and necessary laboratory services at the Contractor's sole cost and expense for the purpose of assisting the SRTA in resolving any problems that may arise in connection with the use of any of the items called for under the Contract.

The Contractor shall keep all maintenance manuals, parts manuals, and related technical documentation up-to-date and available to the SRTA at no charge for a minimum period of twelve (12) years after the date of acceptance of the coaches furnished under this contract. All updated information shall be sent with a cover letter explaining the changes. All copies will be forwarded to the SRTA's Director of Maintenance.

**P. Coach Database Information**

The Contractor shall provide a Microsoft Windows XP Excel file or hardcopy listing for each coach at the time of delivery that shall include:

- Manufacturer name
- Vehicle model name
- SRTA Coach number
- Manufacturer vehicle identification number (VIN#)
- Engine make, model and serial number
- Engine ECM model and serial number
- Transmission make, model and serial number
- Transmission ECU model and serial number
- Differential model and serial number
- Alternator model and serial number
- Regulator model and serial number
- Starter model and serial number
- Air compressor model and serial number
- Air conditioning compressor model and serial number
- Steering box model and serial number
- Front axle model and serial number
- Rear axle model and serial number
- Catalyst/muffler and/or exhaust after-treatment model and serial number
- Wheelchair ramp model and serial number
- DVR model and serial number

**Q. Manuals**

For coaches furnished under this contract the Contractor shall provide the following manuals to the SRTA and for each make and model in the quantities specified within 10 (10) calendar days of the date of delivery:

1. Eleven (11) current coach maintenance manuals including all air system, complete electrical, multiplex and hydraulic schematics and diagrams. Four (4) manuals shall have all pages laminated in clear plastic;



2. Eleven (11) current coach air conditioning system maintenance manuals (if not included in coach manual) including all electrical and hydraulic schematics and diagrams. Four (4) manuals shall have all pages laminated in clear plastic;
3. Eleven (11) current coach wheel chair ramp maintenance manuals (if not included in coach manual) including all electrical and hydraulic schematics and diagrams. Four (4) manuals shall have all pages laminated in clear plastic;
4. Eleven (11) current coach engine maintenance manuals (if not included in coach manual) including all electrical and hydraulic schematics and diagrams. Four (4) manuals shall have all pages laminated in clear plastic;
5. Eleven (11) current coach transmission manuals (if not included in coach manual) including all electrical and hydraulic schematics and diagrams. Four (4) manuals shall have all pages laminated in clear plastic;
6. Eleven (11) current coach part manuals applicable to the coaches provided under this contract, including all subsystems and components, whether manufactured by the Contractor or purchased ready made from an outside source. This manual shall include detailed dimensional drawings for all glazing used in the coach (windows, windshield and doors) to allow future replacement. An index shall be provided at the front of the manual that contains a numerical listing to section reference and alpha part description to section of reference. Four (4) manuals shall have all pages laminated in clear plastic;
7. Eleven (11) current part price catalogs applicable to the coaches furnished under this contract, including all subsystems and components whether made by the Contractor or purchased already made from an outside source.
8. One (1) operator's manual for each bus furnished under this contract. The operator manuals shall have all options installed under the contract described and illustrated that may be used by the operator.
9. All Service and Parts Manuals furnished for the buses shall also be supplied in a PDF format on CD-ROM disks to allow the information to be loaded into the SRTA's Maintenance and Materials Management Information System.

All manuals and electrical schematics will be provided indicating the "as-built" condition of the buses supplied to the SRTA including all optional accessories provided.

Within 60 days of delivery and acceptance of the bus, the Contractor will provide the SRTA an aftermarket part listing with a recommended spare parts inventory to support the quantity of coaches provided in the base order.

Failure to provide the required documentation within the timeframes specified may result in the SRTA conditionally accepting buses and withholding the 5% retention as described in Section 13.L "Inspection/Acceptance/Payment" until all documentation is provided and accepted by the SRTA.

10. Parts availability guarantee – the contractor hereby guarantees to provide, within reasonable periods of time, the spare parts, software and all equipment necessary to maintain and repair the buses supplied under this Contract for a period of at least 15 (fifteen) years after the date of acceptance. Parts shall be interchangeable with the original equipment and be manufactured in accordance with the quality assurance provisions of this Contract. Prices shall not exceed the Contractor's then current published catalog prices.

Where the parts ordered by the Procuring Agency are not received within two working days of the agreed upon time/date and a bus procured under this Contract is out-of-service due to the lack of said ordered parts, then the Contractor shall provide the Procuring Agency, within eight hours of the Procuring Agency's verbal or written request, the original suppliers' and/or manufacturers' parts numbers, company names, addresses, telephone numbers and contact person's names for all of the specific parts not received by the Procuring Agency.

Where the contractor fails to honor this parts guarantee or parts ordered by the Procuring Agency are not received within 30 (thirty) days of the agreed upon date, then the Contractor shall provide the Procuring Agency, within 7 (seven) days of the Procuring Agency's verbal or written request, the design and manufacturing documents for those parts by the Contractor and the original suppliers' and/or manufacturers' parts numbers, company name, addresses, telephone numbers and contact persons' names for all of the specific parts not received by the Procuring Agency. Contractors' design and manufacturing

documentation provided to the Procuring Agency shall be for the sole use in regard to the buses procured under this Contract and for no other purpose.

## **R. Training**

A comprehensive hands-on training program for the Consortia operations and maintenance staff shall be provided by the Contractor and Original Equipment Manufacturers (OEM) for major components provided on the buses. The Training Program schedule will be discussed with Contractor after contract award to establish a training schedule that is properly coordinated with the delivery and acceptance of the buses. The minimum training program requirements are described below.

1. Vehicle Operations Training - The vehicle operation training will be provided to a team of Operator Trainers and will cover a minimum of two classes at four (4) hours per class.
2. Basic Vehicle Orientation - A basic vehicle orientation class for mechanics, service workers, and supervisors will be conducted which provides an overview of the vehicle, service access locations to all major components, locations of all daily service items on the bus, location of all diagnostic ports, and other general operations and of vehicle maintenance. A minimum of six classes at four (4) hours per class will be provided.
3. Bus Maintenance - A detailed twenty-four (24) hour class covering the bus air system, doors, suspension, body and other minor systems will be provided for the SRTA's mechanics, supervisors, maintenance trainers and support staff. A minimum of six classes will be provided.
4. Bus Electrical - A detailed twenty-four (24) hour class covering the bus electrical system including the charging/starting circuit, 12/24 volt power distribution, multiplex system, and all electrical schematics will be provided for the SRTA's mechanics, supervisors, maintenance trainers and support staff. A minimum of six classes will be provided.
5. AC/Heat System - A detailed twenty-four (24) hour class covering the bus heating and air conditioning system operations, maintenance, diagnostics and troubleshooting will be provided for the SRTA's mechanics, supervisors, maintenance trainers and support staff. A minimum of six classes will be provided.
6. Engine - A detailed forty (40) hour class covering the engine and exhaust after treatment system provided that includes engine familiarization, electronic controls, mechanical and electronic diagnostics, exhaust system operation, maintenance and diagnostics, component replacement of exhaust key components will be provided for the SRTA's mechanics, supervisors, maintenance trainers and support staff. A minimum of six classes will be provided.

7. Transmission - A detailed thirty-two (32) hour class covering the transmission provided that includes transmission familiarization, operation, electronic controls, mechanical and electronic diagnostics will be provided for the SRTA's mechanics, supervisors, maintenance trainers and support staff. A minimum of six classes will be provided.

8. Transmission Overhaul - A detailed forty (40) hour class covering the transmission provided that includes all aspects of transmission overhaul for the SRTA's two maintenance trainers (train the trainers). A minimum of one class will be provided.

9. Destination Sign System - A detailed four (4) hour class covering the destination sign system including operations, maintenance, diagnostics and troubleshooting, and component replacement will be provided for the SRTA's mechanics, supervisors, maintenance trainers and support staff. A minimum of six classes will be provided.

10. Destination Sign System Programming - A detailed eight (8) hour class covering the destination sign system including use of the programming software, loading the SRTA's destination sign listing into the system, sign list updates, programming features, and transfer of program to individual buses will be provided for the SRTA's designated sign programmers. A minimum of two classes will be provided.

11. Wheelchair Ramp - A detailed four (4) hour class covering the wheelchair ramp including operation, maintenance, hydraulics and controls, diagnostics and repair will be provided for the SRTA's mechanics, supervisors, maintenance trainers and support staff. A minimum of six classes will be provided.

12. Parts and Support Familiarization - A four (4) hour class covering the Contractor's parts manuals, parts ordering procedures, and recommended spare parts inventory levels will be provided for the SRTA's Stores, Procurement, and Technical Services staff. A minimum of two classes will be provided.

Vehicle operations training described in R.1 will begin upon an agreed mutually by the SRTA and Contractor. Basic vehicle orientation, bus maintenance training, destination sign programming, and parts and support familiarization training will begin immediately after delivery of the second bus by the Contractor. The remaining training will be scheduled over a period of one (1) year from date of final acceptance of the second bus delivered by the Contractor, subject to approval of dates and times by the SRTA. All training will be conducted at the SRTA's operations and maintenance bases.

**S. Federal Motor Vehicle Safety Standards**

Each bus must comply with the Federal Motor Vehicle Safety Standards (FMVSS) as established by the Department of Transportation and must meet all Federal and Massachusetts Laws and Regulations and Safety Standards in effect on the date of original manufacture.

**T. PPI Index Escalator/De-escalator**

The SRTA and Constoria Members reserve the right to order buses and equipment over the five-year contract term. The prices of such buses and equipment shall be at the prices quoted on Appendix B, Cost Proposal. These prices shall remain firm fixed for any orders issued by SRTA and Consortium Members within a period of 180 days of the Notice to Proceed date. The price(s) of any buses or equipment ordered by SRTA and Consortium Members after the initial 180 day firm/fixed price period shall be that quoted (Base Order Prices) plus/minus any change which will be calculated based on the following formula which utilizes the U.S. Department of Labor/Bureau Of Labor Statistics Producer Price Index (PPI) Category 1413, "Trucks and Bus Bodies."

The change in this index will be used to adjust the Base Order Prices. However, in no event will the SRTA allow a PPI-based adjustment that result in a price increase of greater than five percent per year above the Base Order Price.

**Formula:**

<u>Index Point Change</u>	<u>Example</u>
PPI Index: Future Award Month	141.1
Less PPI Index: Base Award Month	<u>137.6</u>
Equals Index Point Change	3.5
 <u>Index Percent Change</u>	
Index Point Change	3.5
Divided by PPI Index: Base Award Month	137.6
Equals Percentage Change	.0254
 Base Order Price	 1,000.00
Plus Percent Change (.0254 x \$1,000)	25.40
Revised Price for Future Order	\$1,025.40

**Example:**

SRTA awarded its contract in May 2013 (Base Award Month) with the published data for PPI-category 1413 showing an index value of 137.6. SRTA has ordered and received its Base Order of buses. In May of 2014, SRTA elects to purchase more buses for delivery in 2014. The published data for PPI-category 1413 shows an index value of 141.1 in May 2013. The percentage change in the PPI index from May 2013 to May 2014 would be .0254. The buses ordered in May 2014 would be .0254 higher than those ordered in May 2013. This example assumes that the two purchases are for identically- equipped buses.

If any significant equipment modifications are made, in compliance with the terms of the contract, the SRTA and the Contractor will enter into negotiations to determine the price of the equipment modification(s) and the impact of the modification(s) on the Base Order Price(s). The following calculations will be used to convert the then-current price of the modification(s) to the value of the modification(s) on the date of the Base Order Price:

**Formula:**

<u>Index Point Change</u>	<u>Examples</u>
PPI Index: Future Equipment Modification Month	141.1
Less PPI Index: Base Award Month	<u>137.6</u>
Equals Index Point Change	3.5

Index Percent Change

Index Point Change	3.5
Divided by PPI Index: Base Award Month	137.6
Equals	.0254

Results Multiplied by 100 .0254 X 100

Equals Percent Change 2.54%

Future Equipment Modification Price \$200.00

Less Percentage Change (2.54%x\$200.00)	5.08
Value of Equipment Modification(s) in Base Award Month	194.92
Base Order Price	1,000.00
Plus Equipment Modification(s) Cost	194.92
Equals Revised Base Order Price	\$1,194.92

All future releases, including the equipment modification(s), will be priced based upon the new revised Base Award Price.

**U. Intellectual Property Warranty**

SRTA shall advise the Contractor of any impending patent suit related to this Contract against SRTA and provide all information available. The Contractor shall indemnify and defend any suit or proceeding brought against SRTA based on a claim that any equipment, or any part thereof, furnished by Contractor under this Contract constitutes an infringement of any patent, and the Contractor shall pay all damages and costs awarded therein. In case said equipment, or any part thereof, is in such suit held to constitute infringement and use of said equipment or parts is enjoined, Contractor shall at its own expense and at its option, either procure for SRTA the right to continue using said equipment or part, or replace same with non-infringing equipment, or modify it so it becomes non-infringing.

**V. Data Rights**

Proprietary Rights/Rights in Data

The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Contract resulting from this solicitation.

Included are the proprietary rights of:

- Shop Drawings and Working Drawings;
- Technical data including manuals or instruction materials, computer or microprocessor software;
- Patented materials, equipment, device or processes; and
- License requirements

SRTA shall protect proprietary information provided by the Contractor to the fullest extent of the law. The contractor shall grant a royalty-free, perpetual, non-exclusive license to allow SRTA to utilize such information in order to maintain the vehicles.

SRTA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the following subject data for its purposes:

1. Any subject data required to be developed and first produced in the performance of the Contract and specifically paid for as such under the Contract whether or not a copyright has been obtained;
2. Any rights of copyrights to which the Contractor, subcontractor or supplier purchases ownership for the purpose of performance of the Contract and specifically paid for as such under the Contract; and
3. The Contractor agrees to include the requirements of this clause, modified as necessary to identify the affected parties, in each subcontract and supply order placed under the Contract.

**14. FEDERAL CONTRACT CLAUSES**

**This project will be financed in part by funds from the Federal Transit Administration (FTA). Accordingly, Federal requirements apply to this contract and if those requirements change then the most recent requirements shall apply to the project as required.**

**A. Energy Conservation**

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 Federal Energy Policy and Conservation Act, 49 U.S.C. §§ 6321 et seq.

**B. Clean Water and Air Requirements**

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., and the Clear Air Act, as amended, 42 U.S.C. 7401 et seq. The Contractor agrees to report each violation to SRTA and understands and agrees that SRTA will, in turn, report each violation as required to assure notification to the FTA and the appropriate EPA regional office.

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

**C. Lobbying**

Contractor shall submit with its Proposal the certification (Appendix I, Disclosure of Lobbying Activities) required by 49 CFR part 20. Contractor shall certify that it will not and has not used Federally 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. Contractor 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 shall be forwarded to the SRTA.

**D. Access to Records and Reports**

Contractor shall provide all authorized representatives of the SRTA, the FTA Administrator, and the Comptroller General of the United States access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, copies, examinations, excerpts and transcriptions. Contractor also 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 the same until SRTA, 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.

**E. Federal Changes**

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 Agreement (Form FTA MA (18) dated October 1, 2011) between the SRTA and the 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.

**F. No Government Obligation to Third Parties**

The SRTA 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 SRTA, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. 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.

**G. Program Fraud and False or Fraudulent Statements and Related Acts**

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.

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 SRTA 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.

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.

#### **H. Government-Wide Debarment and Suspension**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its Proposal, Proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the SRTA. If it is later determined that the Proposer knowingly rendered an erroneous certification, in addition to remedies available to the SRTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Bidder or Proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **I. Privacy Act**

The following requirements apply to the Contractor and any of its employees that may administer any system of records on behalf of the Federal Government under any contract:

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, U.S.C. §552(a). 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.

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.

#### **J. Civil Rights Requirements**

(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.

**K. Incorporation of Federal Transit Administration (FTA) Terms**

The preceding provisions include, in part, certain Standard Terms and Conditions required by U.S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by the U.S. DOT, as set forth in FTA Circular 4220. 1F, as may be amended, 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 Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any SRTA requests which would cause the SRTA to be in violation of the FTA terms and conditions.

**L. Buy America Pre-Award and Post-Delivery Audit Requirement**

The Contractor agrees to comply with 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, which provide that Federal funds may not be obligated unless rolling stock is assembled in the United States and has 60 percent domestic content.

The Contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

(1) Buy America Requirements: The Contractor shall complete and submit a declaration (Appendix E) certifying either compliance or noncompliance with Buy America. If the Proposer/Offeror certifies

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

(2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the Proposal specifications.

(3) Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

(4) Contractor will cooperate with the SRTA in conducting all post-delivery review necessary to insure compliance with the Buy America requirements.

**M. Breaches and Disputes Resolution**

A. Overtime Requirements – Neither the Contractor nor its subcontractors may permit any laborer or mechanic in any workweek in which he or she is employed on such work under this Contract to work in excess of forty (40) 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.

B. Violation, Liability for Unpaid Wages, Liquidated Damages – In the event of any violation of the clause set forth in paragraph A of this Section, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, 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 A of this Section in the sum of \$10.00 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in paragraph A of this Section.

C. Withholding for Unpaid Wages and Liquidated Damages – SRTA 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 Contractor under any such contract or any other Federal contract with Contractor or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by Contractor, such sums as may be determined to be necessary to satisfy any liabilities of Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph B of this Section.

D. Subcontracts – The Contractor shall insert in any subcontract the clauses set forth in this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Section.

E. Payrolls and Basic Records – 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 (3) 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 that 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 shall also maintain records that show the costs anticipated or the actual cost incurred in providing such benefits.

Should the Contractor employ apprentices or trainees under approved programs, it 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.

F. Occupational Safety and Health Act – The Contractor agrees to comply with Section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. Section 333, and applicable DOL regulations, “Safety and Health Regulations for Construction”, 29 CFR Part 1926. Among other things, the Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

G. The Contractor also agrees to include the requirements of this Subsection F in each subcontract. The term “subcontract” under this Subsection is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a “subcontractor” under this Section if the work in question involves the performance of construction work and is to be performed: (1) directly on or near the construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials that will become an integral part of the construction is a “subcontractor” if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a “subcontractor.” The requirements of this Section do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

**N. Bus Testing**

The Contractor shall complete and submit a certificate (Appendix K) agrees to comply with 49 U.S.C. § 5323(c) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the following:

- 1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle.
- 2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
- 3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
- 4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

**O. Fly America**

The Contractor agrees to comply with 49 USC 40118 (the “Fly America Act”) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provides that recipients and subrecipients 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. If a foreign air carrier was used, the Contractor shall submit an appropriate certification or memorandum adequately explaining why service by a U.S. flag 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.

**P. Transit Vehicle Manufacturer's (TVM) Certificate**

TVM Certification **MUST** be submitted with Proposal; Proposal is considered non-responsive if certification is not submitted and contract cannot be awarded (Appendix O).

**Q. Access Requirements for Persons with Disabilities.**

The Recipient agrees to comply with the provisions of 49 U.S.C. § 5301(d), which sets forth the Federal policy that elderly persons and persons with disabilities have the same right as other persons to use transit service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly persons and persons with disabilities. The Recipient also agrees to comply with all applicable requirements of the following Federal laws and any subsequent amendments thereto: section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicap; the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires accessible facilities and services to be made available to persons with disabilities; and the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to persons with disabilities

**R. Contract Work Hours and Safety Standards Act, as amended,**

40 U.S.C. §§ 3701 *et seq.*, specifically, the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and implementing U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5; and the safety requirements of section 107 of that Act at 40 U.S.C. § 3704, and implementing U.S. DOL regulations, "Safety and Health Regulations for Construction," 29 C.F.R. Part 1926.

**15. REP SUBMITTAL CHECKLIST OF REQUIRED ITEMS**

In addition to the submittal requirements outlined in Section 10 "Proposal Content and Submission", Proposers shall use the following checklist as a guide to ensure all required documentation is included in its Proposal:

- Cover Letter of Introduction and:
- Table of Contents
- Proposers Capability, Experience, and Qualifications
- \_\_\_\_\_ a. Most recent audited financial statement
- \_\_\_\_\_ b. List of five references
- \_\_\_\_\_ c. Indicate that the Proposer's team is prepared to sign the sample Agreement for Services and indicate the Proposer's agreement to be bound to the proposed scope of Work and associated Cost Proposal for 180 days
- Description of Proposer's Organization
- A letter from the Proposer's insurance carrier indicating that the insurance company has read the insurance requirements stated Section 15 of Appendix A "Insurance", and that it will be able to provide the certificate and endorsement for the coverage required. A copy of Proposer's insurance policy will not satisfy this requirement to meet the insurance requirements
- Cost Proposal using the SRTA's form (Appendix B)
- Performance Bond (Appendix C)

- Buy America Certificate of Compliance (Appendix D)
- Subcontractor/Disadvantaged Business Enterprise Questionnaire (Appendix E)
- Federal Motor Vehicle Safety Standards and Pollution Certificate (Appendix F)
- Location of Parts and Technical Service Data (Appendix G)
- FTA Bus Testing Certification (Appendix H)
- Lobbying Certificate (Appendix I)
- Federal Motor Vehicle Safety Standards (FMVSS) (Appendix J)
- Certificate of Compliance with Coach Testing Requirement (Appendix K)
- Acknowledgement of Addenda (if any) (Appendix L)
- Buy America Audit Worksheet (Appendix M)
- Request for Approved Deviations (Appendix N)
- Transit Vehicle Manufacturer's (TVM) Certification (Appendix O)
- Certification of Primary Participant (Appendix P)
- Certificate of Liability Insurance and Letter (Appendix R)

**Proposers are reminded to include one original and five hard copies, plus five electronic .pdf copies on a CD of complete Proposal and to identify any proprietary, trade secret or other confidential information in the Proposal.**

**16. PROJECT TIMELINE**

The following project timeline is provided for your scheduling information, but it may be subject to change at the discretion of the SRTA:

<u>Event</u>	<u>Date</u>
RFP Issued .....	December 2, 2013
Pre-Proposal Meeting .....	10:30 a.m. January 10, 2014
Requests for Questions and Clarifications Due .....	January 24, 2014
SRTA's Response to Questions and Clarifications .....	February 3, 2014
<b>Proposals Due .....</b>	<b>2:00 p.m. February 24, 2014</b>
Interviews (tentative) .....	March 10, 2014
Notice to Proceed (tentatively scheduled) .....	March 28, 2014

**17. CONSORTIUM MEMBER VEHICLE QUANTITIES**

The following Transit Authorities have expressed interest in procuring buses under the terms and conditions of these specifications. The award of a contract directly by the following Transit Authorities with the selected vendor for the purchase of buses will be solely up to the Transit Authority based on a number of factors, such as funding, price, vehicle delivery dates, specifications, and the adherence to FTA vehicle procurement regulations. The SRTA will not be a party to any contract issued or award made by any other Agency.

Consortium Members	30 Ft		35 Ft		40 Ft		TOTAL	
	min	max	min	max	min	max	min	max
Southeastern Regional Transit Authority (SRTA)	0	0	25	34	0	6	25	40
Berkshire Regional Transit Authority (BRTA)	1	5	0	0	0	0	1	5
Brockton Area Transit Authority (BAT)	6	6	20	24	11	14	37	44
Cape Cod Regional Transit Authority (CCRTA)	0	0	25	30	0	0	25	30
Franklin Regional Transit Authority (FRTA)	1	4	0	0	0	0	1	4
Greater Attleboro Regional Transit Authority (GATRA)	9	15	0	0	0	0	9	15
Lowell Regional Transit Authority (LRTA)	1	18	0	0	1	7	18	25
Merrimack Valley Regional Transit Authority (MVRTA)	2	2	15	18	3	3	17	20
Montachusett Regional Transit Authority (MART)	1	4	3	10	0	0	1	12
Nantucket Regional Transit Authority (NRTA)	1	2	0	0	0	0	1	2
Worcester Regional Transit Authority (WRTA)	0	0	0	0	3	9	3	9
							<b>138</b>	<b>206</b>

## 18. LIST OF APPENDICES

- A. Sample Agreement for Services
- B. Cost Proposal
- C. Performance Bond and Sample Irrevocable Standby Letter of Credit
- D. Buy America Certificate of Compliance
- E. Subcontractor/DBE Questionnaire
- F. Federal Motor Vehicle Safety Standards and Pollution Certificate
- G. Location of Parts and Technical Service Data
- H. FTA Bus Testing Certification
- I. Lobbying Certificate
- J. Federal Motor Vehicle Safety Standards (FMVSS)
- K. Certificate of Compliance with Coach Testing Requirement
- L. Acknowledgement of Addenda
- M. Buy America Audit Worksheet
- N. Request for Approved Deviations
- O. Transit Vehicle Manufacturer's (TVM) Certification
- P. Certification of Primary Participant
- Q. Protest Procedures
- R. Sample Certificate of Liability Insurance and Letter