



Request for Proposals

RFP # 2023123

BULK FUEL SERVICE

Issued: August 1, 2023

Due Date: September 6, 2023

Submit Proposals to:

Teresa Elliott, Contracting Officer

500 Industrial Blvd.

Terrell, TX 75160

Subject Line: Bulk Fuel RFP

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Section 1 Request for Proposals

1.1 INTRODUCTION

STAR Transit is a political subdivision of the State of Texas organized and operating under the Texas Government Code §791.003. STAR Transit provides services to over 150,000 people per year through a variety of rural and urban public transportation options within several jurisdictions immediately east and south of the City of Dallas. This service area includes Cities such as Seagoville, Royse City, Balch Springs, Mesquite, Hutchins, DeSoto, Cedar Hill, Duncanville and Kaufman, Rockwall, Navarro, and Ellis Counties. STAR Transit’s Mission is to provide people with safe, affordable, convenient, and desirable mobility options to enrich quality of life by connecting all to services and opportunities. STAR Transit is the recipient of Federal Transit Administration (FTA) and Texas Department of Transportation (TxDOT) funding. This project may be financed jointly by federal, state, and local authorities, including FTA and TxDOT.

The Request for Proposals (RFP) process and the performance of the requested services will be in accordance with the guidelines and regulations of the FTA “Third Party Contracting Guidelines”, FTA Circular 4220.1F, and all other applicable federal, state, and local laws and regulations. STAR Transit is a tax-exempt organization and is free from all state and federal taxes. No such taxes shall be included in the Offeror's charges to STAR Transit. All costs incurred in the preparation of the proposal responding to this RFP will be the responsibility of the Offeror and will not be reimbursed by STAR Transit. Issuance of this RFP and receipt of proposals does not commit STAR Transit to award a contract. STAR Transit reserves the right to postpone the proposal opening for its own convenience, to accept or reject any or all proposals received in response to this RFP, or to cancel all or part of this RFP for sound business reasons, at any time before the Contract is fully executed and approved on behalf of STAR Transit.

STAR Transit is seeking proposals from qualified and experienced firms for the purchase and delivery of fuel in bulk, as described in Section 2, Project Specifications, in this solicitation.

1.2 SOLICITATION DATA AND SCHEDULE

RFP Release Date August 1, 2023
Questions or Request for Deviation due to STAR Transit August 16, 2023 by 4:00 p.m. CST
STAR Transit Responses to Questions and Deviations due August 24, 2023 by 4:00 p.m. CST
Proposals Due.....September 6, 2023 by 3:00 P.M. CST
Contract Award.....Anticipated on or before October 18, 2023

STAR Transit reserves the right to make changes to the above-mentioned schedule. All such changes shall be made by an amendment to the solicitation or a letter to all the firms.

Pre-Proposal Site Visits

Offerors are encouraged to visit STAR Transit to view the site where fuel is to be delivered and supplied.

STAR Transit is located at 500 Industrial Blvd, Terrell TX 75160. Site visits for the purpose of inspecting STAR Transit’s Fuel System must be completed no later than **September 6, 2023 by 3:00 P.M. CST**. Site visits must be scheduled in advance. Unscheduled and/or unannounced visits to STAR Transit may not be allowed.

The Point of Contact for coordination of a site visit is Jeff Rohman, you may contact him at jrohman@startransit.org.

Procuring Agency:

STAR Transit
500 Industrial Blvd.
Terrell, Texas 75160

Contracting Officer:

Teresa Elliott, Project Manager
Phone: 469-323-2309
E-Mail: telliott@startransit.org

Scope

STAR Transit is seeking proposals from highly experienced and professional firms for the purchase and delivery of bulk fuel (Octane 87). These firms should be authorized to do business in the state of Texas.

Offerors should not submit a proposal unless they can provide at least three references for similar work done within the past five (5) years.

Where two or more Offerors desire to submit a single bid in response to this RFP, they should do so on a prime/subcontractor basis rather than on a joint venture basis. STAR Transit intends to contract with a single Offeror and not with multiple Offerors doing business as a joint venture.

The selected Offeror will NOT be allowed to utilize a finance company for the purpose of factoring invoices. Payment for services will be in the form of check made out to the company indicated in the contract terms.

1.3 OFFEROR COMMUNICATIONS AND REQUESTS

Communication or correspondence in regard to any aspect of this solicitation or offers will only be with the Contracting Officer or her designated representative. Offerors shall not make any contact with or communicate with any other members of STAR Transit, its employees, and consultants.

All questions and communication in regard to any aspect of this RFP # 2023123 must be in writing and directed to Teresa Elliott via email at telliott@startransit.org. Offerors may request a clarification or interpretation of any aspect, a deviation, or a change to any requirement of the RFP or any addendum to the RFP up to **September 6, 2023 by 3:00 P.M. CST**. Deviation requests are to be submitted on the deviation form.

Responses to written requests will be provided by STAR Transit in the form of addendum only. Only written responses provided as addendum shall be official and all other forms of communication with any officer, employee or agent of STAR Transit shall not be binding by STAR Transit. Any clarifications or further instructions to Offerors, whether as a result of questions raised by Offerors or initiated by STAR Transit itself, will be sent to all Offerors in written addendum form.

Addendum to RFP

STAR Transit reserves the right to amend the RFP at any time. Any amendments to or interpretations of the RFP will be in written addendum. Prospective Offerors officially known to have received the RFP will be emailed or mailed the addendum. Offerors are responsible for collecting the addendum from the Contracting Officer. Failure of any prospective Offeror to receive addendum will not relieve the Offeror from any obligation under its proposal as submitted or under the RFP, as clarified, interpreted, or modified. All addendums issued will become part of the RFP. Prospective Offerors must acknowledge the receipt of each individual addendum in their proposal. Failure to acknowledge any addendum in the submitted proposals may at STAR Transit's sole option disqualify the proposal.

If STAR Transit determines that the addendum may require significant changes in the preparation of proposals, the deadline for submitting the proposals may be postponed allowing Offerors sufficient time to revise their proposals and the new due date shall be included in the addendum.

Conditions, Exceptions, Reservations or Understandings

Proposals stating conditions, exceptions, reservations, or understandings (hereinafter "deviations") relating to the RFP may be rejected. Offerors may submit an alternate proposal that states deviations so long as a basic proposal not containing deviations is submitted. Offerors may propose alternates either within one overall proposal or by submitting more than one proposal.

Any and all deviations must be explicitly, fully, and separately stated in the proposal by completing the Proposal Deviation Form, in Section 3.3, setting forth at a minimum the specific reasons for each deviation so that it can be fully considered and, if appropriate, evaluated by STAR Transit. All deviations

not found by STAR Transit to be unacceptable shall be evaluated in accordance with the appropriate evaluation criteria and procedures and may result in the Offeror receiving a less favorable evaluation than without the deviation.

1.4 INSTRUCTION TO OFFERORS SUBMISSION REQUIREMENTS

Sealed proposals must be received by **September 6, 2023 by 3:00 P.M. CST**. Proposals and subsequent offers shall be valid for a period of 90 days. Late proposals will be returned to Offeror unopened and will not be considered under any circumstances. Electronic proposals will be accepted and must be submitted as a PDF file.

The sealed envelope will be addressed as below and must contain the Offerors name and address and be clearly marked: "STAR Transit RFP # 2023123 Bulk Fuel". All proposals are to be submitted to:

STAR Transit
Teresa Elliott, Project Manager
500 Industrial Blvd.
Terrell, TX 75160

Or

telliott@startransit.org Subject: RFP # 2023123 Bulk Fuel

Proposal Format and Contents Requirements

Failure to provide the required information with the Proposal may automatically disqualify the proposal from consideration for award.

Sealed proposals must be submitted on 8.5 x 11" white paper, using a simple method of fastening. They should be typed, and a lengthy narrative is discouraged. To provide for comparability between proposals, all proposals **must be submitted in the following order separated by tabs**. Vendors not addressing these topics or not using the prescribed order may be judged non-responsive and disqualified from the RFP process.

Tab 1 Business Organization. State the full name, address, and phone number of the Offeror and, if applicable, the branch office or division that will perform or assist in performing the work. The capacity of the person submitting the proposal should also be provided. Indicate whether the Offeror is licensed to operate in the State of Texas, Kaufman County, Texas, and the City of Terrell, Texas. If the Offeror is a partnership, limited liability company, limited partnership, or joint venture, the proposal should state the full names and addresses of all partners, members, or joint ventures' who own at least a ten percent interest in the Offeror. The person signing the proposal must initial any erasures, corrections, or other changes appearing on the proposal form.

Tab 2 Required Forms and Certifications: (Required Forms Section)

- Acknowledgment of Addendum - If addendums have been released.
- Request for Change or Approved Equal
- Proposal Deviation - (Only if Offeror requested deviation)
- Buy America
- DBE Compliance Statement
- DBE Schedule of Utilization
- DBE Good Faith Effort
- Conflict of Interest
- References- Vendor
- Pricing Schedule
- Suspension and Debarment Certification Form
- Delinquent State Business Tax Certification
- Offer
- PTN-130 and all Federal Required Clauses

Tab 3 Purpose of Proposal. State in precise terms the means by which the Scope of Services will be fulfilled.

Tab 4 Statement of Qualifications: The Offerors' experience and history relevant to STAR Transit's needs should be discussed, including a description of the Offeror's direct experience where services comparable in size and scope has been performed in the last five (5) years. Offeror shall provide the name, address and telephone numbers of persons who may be contacted as references. Offeror shall also include dates, locations, costs, and project managers for these previous projects.

Tab 5 Criminal Background: For all persons and entities mentioned in any of the foregoing responses, indicate whether they (1) have ever been convicted of, (2) have an indictment pending for, or (3) have during the last five years been investigated for a criminal offense that is not related to the operation of an automobile. Convictions, indictments, or investigations for the crime of driving while intoxicated shall be disclosed. Convictions indictments, or investigations shall be disclosed regardless of whether for a violation of federal, state, local or non-U.S. laws.

Tab 6 Willingness to Contract: State that the Offeror is willing to enter into a Contract consistent with the terms herein.

Tab 7 Delivery Requirements:

1. Delivery Times

Please answer the following:

- 1.1. Is delivery available 24 hours a day, 7 days per week?
- 1.2. What are Standard Delivery Hours?
- 1.3. What, if any, delivery changes may be applicable for 'Standard Delivery Hours'?
- 1.4. What are 'After Hour' delivery times?
- 1.5. What 'premium charges' may be required for 'After Hour' deliveries?
- 1.6. Is weekend delivery available?
- 1.7. Please describe any additional information regarding delivery times that may be important for STAR Transit to consider.
- 1.8. Please describe any limitations that may surround Holidays.

2. Response Time

- 2.1. What is the Typical vs Guaranteed Response time for an order?
- 2.2. Response time is representative of actual delivery, once the order has been placed
- 2.3. In the event of an Emergency, what is the response time for an Emergency order? Is it representative of after regular business hours, inclement weather, and or natural disaster.
- 2.4. What is the standard business procedure that should be provided/followed in the event of an emergency?

3. Size/Shipment Limitations

- 3.1. Please describe any limitations that you have encountered when delivering product.
- 3.2. What are the Standard Delivery Loads for Bulk Fuel?
- 3.3. Full Load (in Gallons) per Product Type
- 3.4. Less than Full Load (in Gallons) per Product Type

4. Spillage and Cleanup

The Offeror is responsible for all spillage that may occur during transit, loading or unloading. Clean up shall be performed in accordance with EPA and State of Texas guidelines and requirements.

Tab 8 Quality: Fuel Quality

- Please describe the standard testing Procedures for each fuel type.
- Have you experienced any quality issues in the past 24 months? Please describe.
- Please provide the process and remedies available to any Customer that may receive a delivery

- with quality issues.
- It shall be at the Entity's discretion to request samples be provided at the time of delivery.

Tab 9 Pricing Structure (Form 3.10)

- 9.1. Please complete the form with the Profit and Total cost per gallon depending on the size of the load.
- 9.2. Miscellaneous Charges
 - (a) Please describe any charges above and beyond the cost of fuel that may be applied.
 - (b) Trip Charges (Single or Multiple Deliveries)
 - (c) Fuel Surcharges
 - (d) Delivery Fees
 - (e) Government Fees
 - (f) Service Fees Etc.
- 9.3. Fuel Index
 - Are your prices reflective of any fuel index? (Please Specify)
 - Are your prices adjusted per any fuel index? (Please Specify)

Tab 10 Insurance: (Section 2.6)

- **Liability Insurance.** Attach Certificate of Liability insurance.
- **Workman's Compensation.** Attach Information Page from Worker's Compensation policy.
- **Employee Dishonesty Bond.** Attach proof of Dishonesty Bond.
- If Offeror does not have the above insurances in the minimum amounts required, a letter from an underwriter confirming that the Offeror can be insured for the required minimum amounts is to be submitted.

Tab 11 Qualification Requirements

- Financial Statements must be made available upon request. Offeror's Financial Statements: Must be prepared in accordance with the United States Generally Accepted Accounting Principles (GAAP) and audited by an independent certified public accountant authorized to practice in the jurisdiction of either STAR Transit or the Offeror OR Financial statements that have been reviewed or compiled by an accountant.
- Financial Guaranty: Willingness of any parent company to provide the required financial guaranty evidenced by a letter of commitment signed by an officer of the parent company having the authority to execute the parent company guaranty.

Equipment & Supplies

The Offeror at its own expense furnish all labor, supplies, equipment, and machinery necessary to fulfill the Scope of Services.

Tax Exempt

The Offeror recognizes that STAR Transit is exempt from the payment of certain Federal, State, and local taxes, and that such taxes are not to be included in the proposal price. STAR Transit will furnish a Contractor with the necessary tax-exempt certificates.

Inspection

All supplies, equipment, machinery, and labor furnished in performance of the Scope of Services shall be subject to inspection at any time by STAR Transit.

Modification or Withdrawal or Proposals

A modification of a proposal already received will be accepted by STAR Transit only if the modification is received prior to the proposal due date or is specifically requested by STAR Transit. All modifications shall be made in writing and executed and submitted in the same form and manner as the original proposal.

An Offeror may withdraw a proposal prior to the proposal due date by submitting a written request for withdrawal executed by the Offeror's authorized representative. The Offeror may submit another proposal within the time set for receipt of proposals. This provision for modification and withdrawal of proposals

may not be utilized by an Offeror as a means to submit a late proposal and, as such, will not alter STAR Transit's right to reject a proposal.

Confidentiality of Proposals

When the award is made, and an agreement is executed proposals are subject to review under the "Public Information Act". To the extent permitted by law, Offerors may designate those portions of the offer which contain proprietary information, trade secrets or confidential commercial and financial information that an Offeror believes should be exempted from disclosure are to remain confidential. Such information shall accompany the proposal, be readily separable from the proposal, and shall be clearly marked "CONFIDENTIAL". Blanket-type identification by designating whole pages or sections as containing proprietary information, trade secrets or confidential commercial and financial information will not assure confidentiality. The specific proprietary information, trade secrets or confidential commercial and financial information must be clearly identified as such.

1.5 EVALUATION CRITERIA AND PROCEDURES

Proposals will be evaluated and ranked on the basis of the following factors, the weights of which are:

Prior Experience, Qualifications & Company History	10%
References	20%
Delivery Time/Schedule	20%
Pricing Structure	40%
Quality/Completeness/Adhering to Instructions.....	10%

All aspects of the evaluations of the proposals and any discussions/negotiations, including documentation, correspondence, and meetings, will be kept confidential during the evaluation and negotiation process.

Proposals will be analyzed for conformance with the instructions and requirements of the RFP and Contract documents. Proposals that do not comply with these instructions and do not include the required information may be rejected as insufficient or not be considered for the competitive range. STAR Transit reserves the right to request an Offeror to provide any missing information and to make corrections. Offerors are advised that the detailed evaluation forms and procedures will follow the same proposal format and organization specified in Instructions to Offerors. Therefore, Offerors shall pay close attention to and strictly follow all instructions. Submittal of a proposal will signify that the Offeror has accepted the whole of the Contract documents, except such conditions, exceptions, reservations, or understandings explicitly, fully, and separately stated on the forms and according to the instructions of Form for Proposal Deviation. Any such conditions, exceptions, reservations, or understandings which do not result in the rejection of the proposal are subject to evaluation under the criteria of Proposal Evaluation Criteria.

STAR Transit will select for any award the highest ranked proposal from a responsible Offeror, qualified under Qualification Requirements which does not render this procurement financially infeasible and is judged to be most advantageous to STAR Transit based on consideration of the evaluation Proposal Evaluation Criteria.

Evaluations of Competitive Proposals

- 1. Qualification of Responsible Offerors.** Proposals will be evaluated to determine the responsibility of Offerors. A final determination of an Offerors responsibility will be made upon the basis of initial information submitted in the proposal, any information submitted upon request by STAR Transit, information submitted in a BAFO if requested by STAR Transit and information resulting from STAR Transit’s inquiry of Offeror’s references and its own knowledge of the Offeror.

2. **Detailed Evaluation of Proposals and Determination of Competitive Range.** Each proposal will be evaluated in accordance with the requirements and criteria specified in "Proposal Selection Process".

The following are the minimum requirements that must be met for a proposal to be considered for the competitive range. All of these requirements must be met; therefore, they are not listed in any particular order of importance. Any proposal that STAR Transit finds not to meet these requirements, and may not be made to meet these requirements, may be determined by STAR Transit to not be considered for the competitive range. The requirements are as follows:

- a. Offeror is initially evaluated as responsible in accordance with the requirements of "Qualification Requirements", or that STAR Transit finds it is reasonable that said proposal can be modified to meet said requirements. Final determination of responsibility will be made with final evaluations.
- b. Offeror has followed the instructions of the RFP and included sufficient detailed information, such that the proposal can be evaluated. Any deficiencies in this regard must be determined by STAR Transit to be either a defect that STAR Transit will waive in accordance with "Acceptance/Rejection of Proposals" or that the proposal can be sufficiently modified to meet these requirements.
- c. Proposal price would not render this procurement financially infeasible, or it is reasonable that such proposal price might be reduced to render the procurement financially feasible.

STAR Transit will carry out and document its evaluations in accordance with the criteria and procedures of "Proposal Selection Process". Any extreme proposal deficiencies which may render a proposal unacceptable will be documented. STAR Transit will make specific notes of questions, issues, concerns, and areas requiring clarification by Offerors and to be discussed in any meetings held with Offerors which STAR Transit finds to be within the competitive range.

Rankings and spreads of the proposals against the evaluation criteria will then be made by STAR Transit as a means of judging the overall relative spread between proposals and of determining which proposals are within the competitive range or may be reasonably made to be within the competitive range.

3. **Proposals not within the Competitive Range.** Offerors of any proposals that have been determined by STAR Transit as not in the competitive range and cannot be reasonably made to be within the competitive range, will be notified in writing.
4. **Discussions with Offerors in the Competitive Range.** The Offerors whose proposals are found by STAR Transit to be within the competitive range or may be reasonably made to be within the competitive range, will be contacted by STAR Transit to answer any questions and/or requests for clarifications, if any. Each such Offeror may be invited for a private interview(s) and discussions with STAR Transit to discuss answers to written or oral questions, clarifications, and any facet of its proposal.

In the event that a proposal, which has been included in the competitive range, contains conditions, exceptions, reservations, or understandings to any Contract requirements as provided in "Form for Proposal Deviation", said conditions, exceptions, reservations, or understandings may be negotiated during these meetings. However, STAR Transit shall have the right to reject any and all such conditions and/or exceptions and instruct the Offeror to amend its proposal and remove said conditions and/or exceptions; and any Offeror failing to do so may cause STAR Transit to find such proposal to be outside the competitive range.

No information, financial or otherwise, will be provided to any Offeror about any of the proposals from other Offerors. Offerors will not be given a specific price or specific financial

requirements they must meet to gain further consideration, except that proposed prices may be considered to be too high with respect to the marketplace or unacceptable. Offerors will not be told of their rankings among the other Offerors.

5. **Best and Final Offers (BAFO).** Offerors are reminded the BAFO's may not be requested and therefore their first submission should always be their best possible offer. If BAFO's are requested, once all interviews have been completed, each of the Offerors in the competitive range will be afforded the opportunity to amend its proposal and make its BAFO. The request for BAFO's shall include:
 - a. Notice that discussions/negotiations are concluded;
 - b. Notice that this is the opportunity for submission of a BAFO;
 - c. A common date and time for submission of written BAFO's, allowing a reasonable opportunity for preparation of the written BAFO's;
 - d. Notice that if any modification to a BAFO is submitted, it must be received by the date and time specified for the receipt of BAFO's and is subject to the late submissions, modifications, and withdrawals of proposals provisions of the Request for Proposal;
 - e. Notice that if Offerors do not submit a BAFO or a notice of withdrawal and another BAFO, their immediate previous offer will be construed as their BAFO.

Any modifications to the initial proposals made by an Offeror in its BAFO shall be identified in its BAFO. BAFO's will be evaluated by STAR Transit according to the same requirements and criteria as the initial proposals "Proposal Selection Process". STAR Transit will make appropriate adjustments to the initial scores for any sub-criteria and criteria which have been affected by any proposal modifications made by the BAFO's. These final scores and rankings within each criterion will again be arrayed by STAR Transit and considered according to the relative degrees of importance of the criteria defined in "Proposal EvaluationCriteria".

STAR Transit will make the award to the responsible Offeror whose proposal is most advantageous to STAR Transit. Accordingly, STAR Transit may not necessarily make an award to the Offeror with the highest technical ranking nor award to the Offeror with the lowest price proposal if doing so would not be in the overall best interest of STAR Transit.

STAR Transit reserves the right to make an award to an Offeror whose proposal it judges to be most advantageous to STAR Transit based upon the evaluation criteria, without conducting any written or oral discussions with any Offerors or solicitation of any BAFO's.

1.6 RESPONSE TO PROPOSALS ACCEPTANCE/REJECTION OF PROPOSALS

STAR Transit reserves the right to reject any or all proposals for sound business reasons, to undertake discussions with one or more Offerors, and to accept that proposal or modified proposal which, in its judgment, will be most advantageous to STAR Transit, price and other evaluation criteria considered. STAR Transit reserves the right to consider any specific proposal which is conditional or not prepared in accordance with the instructions and requirements of this RFP to be noncompetitive. STAR Transit reserves the right to waive any defects, or minor informalities or irregularities in any proposal which do not materially affect the proposal or prejudice other Offerors.

If there is any evidence indicating that two or more Offerors are in collusion to restrict competition or otherwise engaged in anti-competitive practices, the proposals of all such Offerors shall be rejected and such evidence may be a cause for disqualification of the participants in any future solicitations undertaken by STAR Transit.

STAR Transit may reject a proposal that includes unacceptable deviations as provided in "Conditions, Exceptions, Reservations or Understandings".

Single Proposal Response

If only one proposal is received in response to this RFP and it is found by STAR Transit to be acceptable, a detailed price/cost proposal may be requested of the single Offeror. A price or cost analysis, or both, possibly including an audit, may be performed by or for STAR Transit of the detailed price/cost proposal in order to determine if the price is fair and reasonable. The Offeror has agreed to such analysis by submitting a proposal in response to this RFP.

Price analysis: An evaluation of a proposed price that does not involve an in-depth evaluation of all the separate cost elements and the profit factors that comprise an Offeror's price proposal. It should be recognized that a price analysis through comparison to other similar procurements must be based on an established or competitive price of the elements used in the comparison. The comparison must be made to a purchase of similar quantity, involving similar specifications and in a similar time frame. Where a difference exists, a detailed analysis must be made of this difference and costs attached thereto.

Where it is impossible to obtain a valid price analysis, it may be necessary to conduct a cost analysis of the proposed price.

Cost analysis: A more detailed evaluation of the cost elements in the Offeror's offer to perform. It is conducted to form an opinion as to the degree to which the proposed costs represent what the Offeror's performance should cost. A cost analysis is generally conducted to determine whether the Offeror is applying sound management in proposing the application of resources to the contracted effort and whether costs are allowable, allocable, and reasonable.

Any such analyses and the results there from shall not obligate STAR Transit to accept such a single proposal; and STAR Transit may reject such proposal at its sole discretion.

Appeals

Appeals to STAR Transit's decision of approved equals or clarifications of specifications must be in writing and received by STAR Transit by the time specified in the schedule. STAR Transit has no obligation to consider appeals not received within the time specified in the Schedule.

Protests

Protests resulting from the award of a contract through the RFP procedure must be made in writing to STAR Transit's Contracting Officer within three working days of the letter of non-selection to the Offeror. The protest must outline the specific portion of the specification or proposal procedure that had been violated.

Protests by an interested party regarding this procurement shall be made in accordance with Chapter 2155 of the Texas Government Code. After such administrative remedies have been exhausted, an interested party may file a protest with the Federal Transit Administration (FTA) or the U.S. Department of Transportation pursuant to the procedures provided in FTA C 4220.1F, or the Texas Department of Transportation (TxDOT). Alleged violations of certain federal requirements provide a separate complaint procedure. See, for example, Buy America Requirements, 49 CFR 661 and Participation by Disadvantaged Business Enterprise in Department of Transportation Programs, 49 CFR 23.

Failure to comply with the above protest procedures will render a protest untimely and/or inadequate and shall result in its rejection.

Conflict of Interest

Effective January 1, 2006, Chapter 176 of the Texas Local Government Code (House Bill 914) requires that any vendor or person considering doing business with a local government entity disclose the vendor or person's affiliation or business relationship that might cause a conflict of interest with a local government entity. The Conflict of Interest Questionnaire form is included in the Forms Section. Any attempt to intentionally or unintentionally conceal or obfuscate a conflict of interest may automatically result in the

disqualification of the Offeror.

Disclosure of Interested Parties

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties (Form 1295), which is available at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm, to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. STAR Transit require the selected Contractor to file Form 1295 electronically with the Commission at the time of Contract Award.

Bid Protest Policy

Protests resulting from the award of a contract through the RFP procedure must be made in writing to STAR Transit's Contracting Officer within three (3) working days of the letter of non-selection to the Offeror or proposer. The protest must outline the specific portion of the specification or proposal procedure that had been violated.

As an FTA funding recipient, STAR Transit is required to notify and keep FTA updated about the status of the protest when it receives a third-party contract protest to which this circular applies an award given by STAR Transit.

The protester must exhaust its administrative remedies by pursuing the recipient's protest procedures to completion before appealing the recipient's decision to FTA.

Protests by an interested party, as in a party that is an actual or prospective Offeror whose direct economic interest would be affected by the award or failure to award the third-party contract at issue, regarding this procurement shall be made in accordance with Chapter 2155 of the Texas Government Code. After such administrative remedies, have been exhausted, an interested party may file a protest with the Federal Transit Administration (FTA) or the U.S. Department of Transportation pursuant to the procedures provided in FTA C 4220.1F. Alleged violations of certain federal requirements provide a separate complaint procedure. See, for example, Buy America Requirements, 49 CFR 661 and Participation by Disadvantaged Business Enterprise in Department of Transportation Programs, 49 CFR 23.

The protester must deliver its appeal to the FTA Regional Administrator within five (5) working days of the date when the protestor has received actual or constructive notice of the recipient's final decision or when the protestor has identified other grounds for appeal to FTA, such as, the recipient's failure to have or failure to comply with its protest procedures or failure to review the protest.

Failure to comply with the above protest procedures renders a protest untimely and/or inadequate and shall result in its rejection.

In the event of a timely protest received by the Contracting Officer, the following steps are

performed: The Contracting Officer affects a stay of procurement during the protest.

- If the contract has not been awarded, award is delayed until all administrative and judicial remedies have been exhausted. All Offerors or proposers on the vendor mailing list are advised of the protest and of the delay in the procurement.
- The Executive Director may make a determination, in writing, that the award of a contract without delay is necessary to protect the interests of STAR Transit. This written determination is made part of the contract file by the Contracting Officer.
- The Contracting Officer notifies the President/CEO and the affected department head that a bid or proposal protest has been received.
- The Contracting Officer conducts an investigation into the protest with the assistance of STAR Transit staff or other personnel as required.

- The Contracting Officer may meet with the protesting vendor or request additional information from the vendor during the investigation
- The Contracting Officer issues the findings of the investigation in writing to all interested parties and the written report, including the original protest, is made a part of the contract file.
- The Grants and Budget Department acts as the direct liaison with FTA. The Contracting Officer supplies any records or documents requested by the Grants and Budget Department for FTA.
- The Contracting Officer makes any necessary changes to the procurement process, as pertaining to the protested bid/proposal, resulting from FTA's decision.
- The Contracting Officer makes the written report of FTA, including all related correspondence, a part of the contract file.

Contractor Status

Contractor is an independent Contractor of STAR Transit, and all persons employed to furnish services or to perform work hereunder are employees, agents, or Subcontractors of Contractor and not of STAR Transit. No provision of this agreement shall be construed to give rise to a partnership, joint venture, agency, employer/employee relationship, or any relationship between Contractor and STAR Transit other than that of principal and independent Contractor.

Indemnification/Defense of STAR Transit

Contractor agrees to and does hereby assume full liability and responsibility for and hereby releases and covenants and agrees to indemnify, hold harmless and defend STAR Transit and the members of the Board of Directors and executive committee, officers, principals, agents and employees of each of them (hereinafter collectively "Indemnified Persons") from and against any and all damages, payments, costs, losses, expenses, and liability of every kind whatsoever related to all claims for damages or injuries to persons or property of any nature whatsoever (including any claims which may arise on the part of the Contractor, its officers, agents, principals, employees, and subcontractors) arising out of or incident to this solicitation or the contract(s) resulting from this solicitation, or which are in any way related to such solicitation or contract(s) or to Contractor's activities thereunder, or are incident to the grant or exercises of any of the rights and privileges described in such solicitation or contract(s), other than claims resulting solely from the negligence of one or more of the Indemnified Persons. By way of inclusion and not limitation, the liability and responsibility assumed and the claims, damages, payments and expenses released and indemnified against are specifically agreed to include any growing out of or related to libel, slander, and the like, and infringement of patents, copyrights, trademarks, service marks and the like, including claims arising out of the use by any of the Indemnified Persons of any documentation, publication, appliance, tool, equipment or apparatus supplied under such solicitation or contract(s).

STAR Transit will promptly notify Contractor of any such claim and will cooperate with Contractor in defending against any such claim. In the event any suit or legal proceeding of any kind is brought against any of the Indemnified Persons on account of any claim described in the preceding paragraph, Contractor agrees to assume the defense thereof and to pay all expenses relating thereto and in connection therewith and all judgments and levies that may be obtained against any of the Indemnified Persons as a result of any such suit or proceeding, specifically including fines, penalties, attorney's fees, exemplary damages, and interest; and Contractor agrees to at once cause any such judgments and levies to be dissolved and discharged by paying same, giving bond or otherwise.

Contractor also agrees to pay STAR Transit promptly upon receipt of statements therefore, any and all attorney's fees and other expenses reasonably incurred by them directly or indirectly related to any claims.

No Assignment

Any contract resulting from or related to this solicitation and all rights and obligations thereunder are non-assignable in whole or in part by Contractor without the prior express written consent of STAR Transit, and any attempted assignment without such consent shall constitute a material default of Contractor under the underlying contract, and may be considered void for all purposes at the election of STAR Transit.

1.7 TYPE AND TERM OF CONTRACT

STAR Transit shall negotiate and enter into an agreement which will be for a consecutive five (5) year term.

1.8 INVOICING AND PAYMENT

Invoices are to be submitted to STAR Transit's Administrative Office by mailing address at PO Box 703, Terrell, TX 75160, or physical location at 500 Industrial Blvd., Terrell, TX 75160. STAR Transit is tax exempt therefore, invoices cannot include any sales taxes.

STAR Transit agrees to pay all invoices on a net 30-day payment cycle or three days after the receipt of State and Federal funds, whichever is later. This Agreement is contingent upon the receipt of State and Federal funds. Loss of such funds will nullify this contract.

1.9 BONDING AND INSURANCE

General Liability Insurance. Contractor will be required to carry liability insurance for the length of the contract in the amount of \$1 million for the length of the contract.

Workman's Compensation. Contractor will be required to carry Workers Compensation Insurance for the length of the contract.

Employee Dishonesty Bond. Contractor will be required to carry an employee Dishonesty Bond in the amount of \$20,000 for the length of the contract.

After award, proof of the required insurance will be required prior to contract signing.

STAR Transit is to be named as additional insured on the General Liability Insurance. The General Liability and Workers Compensation policies must include a Waiver of Subrogation in favor of STAR Transit. The insurance policies provided by Contractor shall also be endorsed to provide STAR Transit with 60 days advance written notice prior to any cancellation or reduction in coverage, and 10 days' notice for non-payment of premium.

1.10 DISADVANTAGED BUSINESS ENTERPRISES

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The agency's overall goal of Disadvantaged Business Enterprises (DBE) is 3%.

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

Offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following concurrent with and accompanying sealed bid:

1. The names and addresses of DBE firms that will participate in this contract;
2. A description of the work each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written documentation of the Offerors commitment to use a DBE Subcontractor whose participation it submits to meet the contract goal;
5. Written confirmation from the DBE that it is participating in the contract as provided in the prime Contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts to do so.

Offerors must present the information required above as a matter of responsiveness with initial proposals.

The Contractor is required to pay its Subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from STAR Transit. In addition, the Contractor is required to return any retainage payments to those Subcontractors within 30 days after the Subcontractor's work related to this contract is satisfactorily completed.

The Contractor must promptly notify STAR Transit, whenever a DBE Subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE Subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE Subcontractor and self-perform the DBE Subcontractor assigned work.

Section 2 Project Specifications

2.1 PURPOSE

The purpose of STAR Transit's RFP # 2023123 is to solicit proposals for the purchase and delivery of bulk fuel and other vehicle lubricants used in our fleet of vehicles, and to establish a working contract for a designated period. It is the intent of STAR Transit to select a single vendor to accomplish and/or supply all commodities or services outlined in this solicitation; however, STAR Transit reserves the right to award separate contracts for any one item listed on the bid sheets. The option to add additional lubricants as needed as well. All Offerors have the option to bid on one or all items listed.

2.2 SPECIFIC DELIVERY AND ORDERING INFORMATION

Orders for delivery shall be made by phone, fax or email and a purchase order number referenced. Deliveries are to be made by the end of the next working day from the date the order is placed. Supplier is required to furnish the name of the person to contact, and the telephone number to place delivery for orders. STAR Transit reserves the right to inspect bulkheads and measure content of tanks before, at the time of and/or after delivery. All deliveries are to be made during normal working hours of 8:00 am to 4:00 pm., Monday through Friday, excluding holidays, and will be made to the following one (1) location:

- **STAR Transit Roy W. Ferrell Operations Center (Main Office)**
500 Industrial Blvd, Terrell, TX 75160
Tank No. 1- Unleaded - 10,000 gallons-above ground

2.3 PRODUCT ESTIMATES AND USAGE

Quantities shown below are estimates only, based on previous and anticipated annual usage. A tabulation of bids will be prepared based on the estimated usage.

Estimated Average Gallons in FY2022	
<i>Month</i>	<i>Unleaded 87</i>
May	4,295
June	4,295
July	4,295
August	4,295
September	4,295
October	4,295
November	4,295
December	4,295
January	4,295
February	4,295
March	4,295
April	4,295
TOTAL GAL	51,540
<i>Average</i>	4,295

Estimated Fuel Usage for Contract:

Length of Time	Unleaded 87
Yearly Usage	51,540
Monthly Usage	4,295

2.4 PRODUCT SPECIFICATIONS

- Regular unleaded gasoline, with a minimum pump (R+M) 12 octane rating of 87.
- Octane Rating below 87 will not be acceptable.

2.5 NET DELIVERY

All fuel delivered shall be on a net gallon basis temperature corrected to API gravity at 60 degrees Fahrenheit. Proper measurement must be verified by Tank Truck Bill of Lading or by temperature adjusted tank strapping's showing net volume at delivery.

2.6 PRODUCT QUALITY

Fuels to be supplied under this contract shall meet the specifications listed above and be free from contamination. The participating entities reserve the right to test fuel quality upon delivery, prior to and after unloading. Should test results show that fuel contains contamination, it will be rejected. The offeror shall be responsible for pumping out of the fuel tank(s), any water, and any other associated cost of removal/cleanup of site(s) when notified.

Section 3 Required Forms and Clauses

ALL FORMS BELOW MUST BE SUBMITTED WITH PROPOSAL

- Acknowledgment of Addendum
- Request for Change or Approved Equal
- Proposal Deviation Form
- Buy America
- DBE Compliance Statement
- DBE Schedule of Utilization
- DBE Good Faith Effort
- Conflict of Interest
- References – Vendor
- Pricing Schedule
- Suspension and Debarment Certification Form
- Delinquent State Business Tax Certification
- Offer
- PTN-130
- Required Federal Clauses

Failure to submit ALL of the above items properly completed may be cause for disqualification of your bid. All forms must be signed by the person authorized to bind the offering Offeror to the terms of the proposal.

3.1 ACKNOWLEDGMENT OF ADDENDUM

RFP # 2023123

The undersigned acknowledges receipt of STAR Transit's Request for Proposals and the following addendums to STAR Transit's Solicitation Package.

ACKNOWLEDGMENT OF ADDENDUM

- Addendum No. _____ Dated _____
- Addendum No. _____ Dated _____
- Addendum No. _____ Dated _____
- Addendum No. _____ Dated _____
- Addendum No. _____ Dated _____
- Addendum No. _____ Dated _____

Failure to acknowledge receipt of all amendments may cause Offeror to be considered nonresponsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with bid/proposal.

Authorized Signature

Company Name (print)

Name and Title (print)

Date

3.2 REQUEST FOR CHANGE OR APPROVED EQUAL

RFP # 2023123

This form must be used for requested clarifications, changes, substitutes, or approval of items equal to items specified with a brand name and must be submitted as far in advance of the Due Date as specified in "Solicitation Schedule".

Deviation #: Solicitation Ref: #2023123 Page: Section:

Questions/Clarification or Approved Equal:

Authorized Signature

Company Name (print)

Name and Title (print)

Date

STAR Transit:

3.4 DBE COMPLIANCE STATEMENT

RFP # 2023123

Check the statement which applies to your bid.

1. **BID MEETS OR EXCEEDS DBE PERCENTAGE PARTICIPATION GOAL ESTABLISHED FOR THIS PROCUREMENT.**
You must submit the Schedule of DBE Utilization (Forms page A36 in the BPPM) along with bid. If you are a certified DBE, complete the first set of questions on Schedule of DBE Utilization for yourself and submit your certification number from certifying agency. Submit certification numbers for each DBE you intend to use.

2. **BID DOES NOT MEET THE DBE PERCENTAGE PARTICIPATION GOAL ESTABLISHED FOR THIS PROCUREMENT, BUT YOU HAVE MADE BONA FIDE GOOD FAITH EFFORTS TO REACH THOSE GOALS.**
If this statement applies, you must submit the Schedule of DBE Utilization and the DBE Good Faith Effort Documents (Forms page A-36 in the BPPM) along with bid, together with all other documentation of good faith efforts which you wish STAR Transit to consider in evaluation your bid. Only documentation submitted with bid will be considered. Submit certification numbers for each DBE you intend to use.

3. **BID DOES NOT HAVE ANY DBE PERCENTAGE PARTICIPATION FOR THIS PROCUREMENT, BUT YOU BELIEVE THIS PROCUREMENT MEETS THE FOLLOWING EXCEPTION TO STAR TRANSIT'S DBE POLICY:**
"This solicitation is for the procurement of a standard manufactured item or other similar procurement with no subcontracting opportunities."

Firm should check Yes or NO to both questions below and then explain in the exception information area below. Failure to provide an explanation may render the bid non-responsive. (Subcontracting opportunities may include delivery, assembly, installation, painting, supplies etc. Supplies are items purchased specifically for this procurement other than the standard manufactured item requested by the invitation for bid).

- a) WILL YOU PERFORM THIS ENTIRE CONTRACT WITHOUT SUBCONTRACTORS? YES NO
- b) WILL YOU PERFORM THIS ENTIRE CONTRACT WITHOUT SUPPLIERS? YES NO

(If you answered NO to either question above, please fully explain why you are seeking the exception. The existence of Subcontractor and supplier opportunities usually indicate that option #2 and the Good Faith Effort Documents apply.)

Explanation: _____

Authorized Signature

Company Name (print)

Name and Title (print)

Date

(Note: Failure to complete and return the DBE forms as indicated above, will result in rejection of the bid. The making of a material misrepresentation of fact could be a basis of disqualification and may cause a firm to be considered for classification as an irresponsible contractor and barred from STAR Transit work for a period of not exceeding six months).

3.5 DBE SCHEDULE OF UTILIZATION

**Information on the DBE program: www.dot.state.tx.us/business/business_outreach/dbe.htm
Certified DBE Vendors: www.dot.state.tx.us/business/tucp/default.htm**

List all DBE's expected to participate in performing the contract resulting from this solicitation. If you have no DBE participation, but you are subcontracting out (i.e., work deliveries, transportation, parts, and supplies, etc.) a portion of this procurement, then sign and date this form below and completely and thoroughly fill out and sign the Good Faith Effort Documents.

NOTE: Any firm listed below must be certified by the Texas Unified Certification Program (TUCP) and their corresponding certification number must be listed.

Name of prime Contractor (print) **RFP # 2023123**
Bid Number

Note: If Prime Contractor is a certified DBE complete first section below for self.

Name of DBE Subcontractor of DBE Prime Contractor:

Address & Telephone Number:

Specify Subcontracting Tier: Type of Work to be Performed:

Dollar Amount for Work: \$ TUCP Certification#:

Name of DBE Subcontractor of DBE Prime Contractor:

Address & Telephone Number:

Specify Subcontracting Tier: Type of Work to be Performed:

Dollar Amount for Work: \$ TUCP Certification#:

Name of DBE Subcontractor of DBE Prime Contractor:

Address & Telephone Number:

Specify Subcontracting Tier: Type of Work to be Performed:

Dollar Amount for Work: \$ TUCP Certification#:

The undersigned will enter into a formal agreement with DBE Subcontractors for work listed above in this schedule conditioned upon execution of a contract with STAR Transit.

Signature

Title

Date

(Offeror may make additional copies of this schedule as needed to list all DBE Subcontractors that will be used on this contract.)

3.6 DBE GOOD FAITH EFFORT DOCUMENTATION (PAGE 1 OF 2)

RFP # 2023123

If the Offeror did not meet or exceed STAR Transit’s DBE subcontracting goal, then the Offeror must comply with STAR Transit’s DBE policy by documenting that good faith efforts were made. Please place a Yes or No in blanks below for items one, two and three to indicate if you have completed the good faith effort form, attached any related support documents, and provided any additional information/ support/clarification beyond that requested in the good faith effort documents. Item number three (providing additional information) is at the Offeror’s responsibility to ensure that sufficient information is provided to STAR Transit, so that good faith efforts can be comprehensively evaluated.

I, the Offeror, have (YES or NO):

- YES NO 1) Completely filled out this good faith effort form with signature and date,
- YES NO 2) Attached any related supporting documents, and also
- YES NO 3) Provided any additional information and/or documents that I (the Offeror) deemed necessary to support and/or clarify the good faith efforts that I made.

It is the Offeror’s responsibility to correctly, accurately, and substantively provide all necessary information to STAR Transit, at the time of bid submission. The information provided by the Offeror must be sufficient enough for STAR Transit to determine that the efforts made by the Offeror to obtain DBE participation were such efforts that an Offeror actively and aggressively seeking to meet those goals would make. Actions or efforts which are merely “pro forma” or “going through the motions” do not constitute good faith efforts to obtain the participation of DBEs. STAR Transit will look not only at the different kinds of efforts that the Offeror has made, but also the quality and intensity of those efforts.

This information will then be evaluated by STAR Transit’s DBE Department or a designee of STAR Transit for good faith effort compliance. Failure to comply will render the bid non-responsive.

Note: The information requested below is not intended to be an inventory or check list. The DOT does not require STAR Transit to insist that any Offeror do any particular one or any combination of the items on this list. It is not intended to be an exclusive or exhaustive list of all actions an Offeror, acting in good faith actively or aggressively seeking to obtain DBE participation would make. Other types of efforts or factors may be relevant in appropriate cases.

1. Please list each and every subcontracting and/or supplier opportunity which will be available in the completion of this project, regardless of whether it is to be provided by a DBE or non-DBE. Use additional sheets, if needed.

Subcontracting Opportunities	Supplier Opportunities
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.

2. Did you obtain a list of DBE firms from STAR Transit's DBE Department? A list may or may not have been included with the Invitation for Bid. If one was not included, or if additional lists are needed, they can be obtained from the DBE Department upon request. The DBE Department can provide lists, when requested, by subcontracting areas.
 Yes No

3. Did you attend the pre-bid teleconference scheduled by STAR Transit? Yes No

4. Did you request bids from DBEs that also attended the pre-bid conference? Yes No
 If Yes, list DBE Firm/Person Contacted.

5. Did you solicit bids from DBEs, within the subcontracting and/or supplier areas that you listed previously on question number one above by mail? Yes No

6. Did you solicit bids from DBEs, within the subcontracting and/or supplier areas that you listed previously on question number one above by fax? Yes No

7. Did you solicit bids from DBEs, within the subcontracting and/or supplier areas that you listed previously on question number one above by telephone? Yes No

8. Did you solicit bids from DBEs, within the subcontracting and/or supplier areas that you listed previously on question number one above by some other means? Yes No If Yes, please explain. _

9. Did you advertise in local newspapers? Yes No If yes, then please attach a copy(s) of advertisements, with the date advertised and list the specific newspapers that were used.

10. Please provide the following information for every DBE firm that you contacted by any method or that initiated contact with you, but will NOT be used on this contract:
 - _____ a) Attach a listing of every DBE firm that you solicited a bid from or that initiated contact with you to ask about and/or submit an unsolicited bid to you. Include their mailing address, phone and fax numbers, and the date that solicitations were sent. Also, include the method used for the solicitation (i.e., mail, fax, phone, person contact, etc.). If you have a DBE contact name, include that as well.

 - _____ b) Indicate the subcontracting area(s) that you solicited bids on from each DBE firm and/or the subcontracting areas(s) for which each DBE firm submitted a bid to you, if different from what you solicited.

 - _____ c) If DBE firms submitted bids, but those bids were rejected, provide an explanation for rejecting those bids and attach documentation to support the reason for rejecting the bid (i.e., letters, memos, DBE bid amount, telephone notes, meeting notes, etc.)

 - _____ d) If a DBE firm's bid was rejected because of price, then list the DBE firm's bid price and the name and bid price of the Subcontractor or supplier that you will use in lieu of the rejected DBE firm.

 - _____ e) Indicate the number of times that follow-up contact was made with DBE firms after the initial solicitations of interest.

11. Did you contact all DBE firms that you solicited bids from in a timely manner such that the DBE firms had at least ten days prior to the bid submission date to prepare and submit a bid to you? If No, please explain.

12. Did you negotiate in good faith with interested DBE firms by, for instance, providing timely information regarding plans and specifications, breaking down subcontracts into economically feasible units to facilitate DBE participation, maintaining accessible lines of communications, etc.?

13. Did you assist interested DBE firms in obtaining bonding, lines of credit, or insurance required by STAR Transit or by you as prime Contractor? Yes No If Yes, please explain.

ADDITIONAL INFORMATION

Please provide any additional information and/or documents that you (the Offeror) deem necessary to support and/or clarify that you made good faith efforts to meet the DBE subcontracting goal (be sure to attach any support documents).

Note: Failure to complete and return DBE forms as indicated above will result in rejection of the bid. The making of a material misrepresentation of fact could be a basis for disqualification and may cause a firm to be considered for classification as an irresponsible Contractor and barred from STAR Transit work for a period of not exceeding six months.

Authorized Signature

Company Name (print)

Name and Title (print)

Date

3.7 CONFLICT OF INTEREST ACKNOWLEDGMENT AND CERTIFICATION

RFP # 2023123

Your obligation, as a prospective Contractor under this solicitation, is to disclose fully all information you have or may acquire which has to do with any such Benefit, which may come to any Related Person or Other Related Person. In considering the possibility of the existence of such benefit, you also need to consider each person and firm you believe may be involved as a joint venture, or Subcontractor, or other similar role in carrying out and performing a contract with STAR Transit pursuant to the solicitation. In other words, if you are aware of any business, financial, or other interest, or actual or potential employment relationship between any Related Person or any Other Related Person, on the one hand, and yourself or any other person or firm you believe may be involved in carrying out the contract to be awarded pursuant to this solicitation, on the other hand, you have an affirmative obligation to fully disclose that information to STAR Transit. You are encouraged to contact STAR Transit's the Executive Director prior to the deadline for submitting your Response (defined as a bid, proposal, or other response to this solicitation), make such disclosure, and request a ruling as to whether any prohibited conflict of interest does in fact exist.

In order for your Response to be considered RESPONSIVE to this solicitation, it is mandatory that you complete and execute the Acknowledgment and Certification below, and include with your Response, written disclosure of all information relative to any potential conflict of interest which may be known to you, and which you have not disclosed to STAR Transit in writing prior to the submission of your Response.

(POTENTIAL CONTRACTOR)

The undersigned potential Contractor of STAR Transit hereby acknowledges receipt and understanding of the Conflict of Interest provisions set out above; and hereby certifies that, except as heretofore or herewith fully disclosed in writing, to the best of potential Contractor's knowledge and belief, no such conflict exists, or is likely to exist in the future pertaining to this procurement should the contract be awarded to potential Contractor; and potential Contractor further hereby promises to promptly notify STAR Transit in writing if such knowledge or belief changes in the future.

Signature and Title of Authorized Official of Potential Contractor

**Name of Potential Contractor
(print)**

(RECOMMENDED SUBCONTRACTOR)

The undersigned potential subcontractor of STAR Transit hereby acknowledges receipt and understanding of the Conflict of Interest provisions set out above; and hereby certifies that, except as heretofore or herewith fully disclosed in writing, to the best of potential Subcontractor's knowledge and belief, no such conflict exists, or is likely to exist in the future pertaining to this procurement should the contract be awarded to potential Subcontractor; and potential Subcontractor further hereby promises to promptly notify STAR Transit in writing if such knowledge or belief changes in the future.

Signature and Title of Authorized Official of Recommended Subcontractor

**Name of Recommended Subcontractor
(print)**

Note: Offeror shall make copies of the Conflict of Interest document and Acknowledgment and Certification Form and provide to each Subcontractor Offeror recommends for the contract. Offeror is required to secure an Acknowledgment and Certification from each Subcontractor the Offeror recommends and submit such certification to STAR Transit prior to a Subcontractor beginning any work under this contract.

3.8 REFERENCES - VENDOR

RFP # 2023123

Provide a minimum of three references within the past five (5) years in which a similar service was provided. Provide company name, address, contact person, phone, fax, and email.

Be sure to include a valid email as references are checked via email.

Company Name:		
Address:		
Contact Person:		
Email:		
Phone:		Fax:

Company Name:		
Address:		
Contact Person:		
Email:		
Phone:		Fax:

Company Name:		
Address:		
Contact Person:		
Email:		
Phone:		Fax:

3.9 PRICING SCHEDULE

RFP # 2023123

To be accepted, bidders must thoroughly complete all blanks in this section. Offerors must ensure that all calculations are correct. If there are discrepancies in unit price and total, **unit price will prevail.**

Offerors are required to enter the amount in Item B to three (3) decimal places, for “Transport Truck Deliveries” (TTD) and “Less Than Full Transport Truck Deliveries” (LTFTTD) based on the estimated quantities. Offerors must bid on both items 1 & 2 in order to be considered for a contract award.

Bidding process must not take into account the State of Texas mandated Petroleum Product Deliver Fee or the State Road Tax. If awarded a contract, the successful vendor will collect these applicable taxes/fees by itemizing each invoice.

Sample Pricing

**Gasoline, Unleaded, 87
Octane Transport Truck
Delivery (TTD)**

Minimum less than full transport load in U.S. Gallons: 7000

(A) EIA \$/ GALLON As of 7/02/14	(B) Profit Per Gallon	(C) Total Unit Price Per Gallon
\$2.908	\$.023	\$2.9307

**Item #1 Gasoline, UNLEADED, 87 OCTANE
TRANSPORT TRUCK DELIVERY (TTD) OR _____**

Minimum less than full transport load in U.S. Gallons: _____

(A) EIA \$/ GALLON As of 5/22/23	(B) Profit Per Gallon	(C) Total Unit Price Per Gallon
\$2.997	\$ _____	\$ _____

**Item #2 Gasoline, UNLEADED, 87 OCTANE
LESS THAN FULL TRANSPORT TRUCK DELIVERY (LTFTTD)**

Minimum less than full transport load in U.S. Gallons: _____

(A) EIA \$/ GALLON As of 5/22/23	(B) Profit Per Gallon	(C) Total Unit Price Per Gallon
\$2.997	\$ _____	\$ _____

Authorized Signature

Company Name (print)

Name and Title (print)

Date

3.10 SUSPENSION AND DEBARMENT CERTIFICATION FORM

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS PRIMARY COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Order 12549 and 12689, Debarment and Suspension, 2 C.F.R. part 180, 2 C.F.R part 1200, 2 C.F.R. § 200.213, and 2 C.F.R. part 200 Appendix II (I).

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON NEXT PAGE)

The prospective primary Respondent/Contractor certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

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

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

Where the prospective primary Respondent/Contractor is unable to certify any of the statements in this certification, such prospective primary participant shall attach an explanation to this proposal.

DATE: _____

SIGNATURE: _____

NAME / TITLE: _____

RESPONDENT/
CONTRACTOR: _____

INSTRUCTIONS FOR CERTIFICATION

By signing and submitting this proposal, the Respondent/Contractor is providing the certification set out below.

1. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Respondent/Contractor shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Owner's determination whether to enter into this transaction. However, failure of the Respondent/Contractor to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the Owner determined to enter into this transaction. If it is later determined that the Respondent/Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Owner may terminate this transaction for cause or default.
3. The Respondent/Contractor shall provide immediate written notice to the Owner to which this proposal is submitted if at any time the Respondent/Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "bid," "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549 and 12689. You may contact the Owner to which this proposal is submitted for assistance in obtaining a copy of those regulations (2 C.F.R. part 180, 2 C.F.R. part 1200, 2 C.F.R. § 200.213 and 2 C.F.R. part 200 Appendix II (I)).
5. The Respondent/Contractor agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a Subcontractor who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Owner entering into this transaction.
6. The Respondent/Contractor further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion- Lower Tier Covered Transactions," provided by the Owner entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a Respondent/Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under paragraph 6 of these instructions, if a Respondent/Contractor in a covered transaction knowingly enters into a lower tier covered transaction with a Subcontractor who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Owner may terminate this transaction for cause or default.
9. The Respondent/Contractor also agrees to include these requirements in each subcontract, or a lower tier covered transaction, exceeding \$25,000 financed in whole or in part with Federal assistance provided by FTA.

3.11 DELINQUENT STATE BUSINESS TAX CERTIFICATION

All Offerors shall certify that Offerors is not delinquent in a tax owed the state under Chapter 171, Tax Code, pursuant to the Texas Business Corporation Act, Texas Statutes, Article 2.45.

DATE: _____

SIGNATURE: _____

NAME / TITLE: _____

RESPONDENT/
CONTRACTOR: _____

3.12 OFFER

RFP # 2023123

By execution below Offeror hereby offers to furnish equipment and services as specified in STAR Transit's RFP # 2023123 including any addendums that have been issued and guarantees that the product offered will meet or exceed specifications in this RFP.

Offeror certifies that it has read all of the offer documents and agrees to abide by all of the federal clauses, terms, certifications, and conditions thereof.

The Offeror agrees that the bid pricing will remain valid for a period of not less than ninety (90) days from the date of submission; and

The submitted bid includes all pricing needed for award and no further options will be needed upon award.

_____ Authorized Signature	_____ Legal Company Name (print)
_____ Name and Title (print)	_____ Date
_____ Address	_____ City, State & Zip
_____ Telephone	_____ E-mail
_____ Tax ID # or SSN	

Attachment A: OPIS PRICING

DALLAS METRO, TX

2023-05-25 10:00:23 EDT

OPIS CONTRACT BENCHMARK FILE

OPIS GROSS CBOB ETHANOL(10%) PRICES

7.8 RVP

	Terms	Unl	Move	Mid	Move	Pre	Move	Date	Time
XOM	u Net	253.97	+ 6.00	290.22	+ 6.00	-- --	-- --	05/24	19:00
Valero	u N-10	254.69	+ 7.22	-- --	-- --	-- --	-- --	05/24	18:00
PSX	b 1-10	262.61	+ 4.90	-- --	-- --	-- --	-- --	05/24	18:00
XOM	b 125-3	263.72	+ 5.48	299.16	+ 5.48	-- --	-- --	05/24	19:00
DKTS	b 1-10	264.16	+ 6.35	-- --	-- --	-- --	-- --	05/24	18:00
LOW RACK		253.97		290.22		-- --			
HIGH RACK		264.16		299.16		-- --			
RACK AVG		259.83		294.69		-- --			
OPIS GULF COAST DELIVERED SPOT (SRI)									
FOB DALLAS METRO		248.15		-- --		-- --			
BRD LOW RACK		262.61		299.16		-- --			
BRD HIGH RACK		264.16		299.16		-- --			
BRD RACK AVG		263.50		299.16		-- --			
UBD LOW RACK		253.97		290.22		-- --			
UBD HIGH RACK		254.69		290.22		-- --			
UBD RACK AVG		254.33		290.22		-- --			
CONT AVG-05/25		259.83		294.69		-- --			
CONT LOW-05/25		253.97		290.22		-- --			
CONT HIGH-05/25		264.16		299.16		-- --			

ADDITIONAL CONTRACT SUMMARY DATA - Effective 05/25

CONT BRD LOW	262.61	299.16	-- --
CONT BRD HIGH	264.16	299.16	-- --
CONT BRD AVG	263.50	299.16	-- --
CONT UBD LOW	253.97	290.22	-- --
CONT UBD HIGH	254.69	290.22	-- --
CONT UBD AVG	254.33	290.22	-- --

OPIS CONTRACT BENCHMARK FILE
 OPIS GROSS RFG ETHANOL(10%) PRICES

	Terms	Unl	Move	Mid	Move	Pre	Move	Date	Time
PWI-Gulf	b N-10	258.45	+ 2.63	285.41	+ 2.62	321.41	+ 2.63	05/25	00:01
S.R.& M.	u N-10	260.10	+ 5.86	-- --	-- --	300.10	+ 5.86	05/24	18:00
Motiva	u N-10	260.95	+ 6.30	287.95	+ 6.30	331.95	+ 6.30	05/24	18:00
XOM	u Net	261.82	+ 6.93	297.32	+ 6.93	327.82	+ 6.93	05/24	19:00
Valero	u N-10	262.88	+ 6.51	282.88	+ 6.51	309.88	+ 6.51	05/24	18:00
FlntHlsRs	u N-10	263.10	+ 7.00	278.10	+ 7.00	308.10	+ 7.00	05/24	17:00
76-Mot	b 125-3	264.25	+ 5.57	298.68	+ 5.57	338.18	+ 5.57	05/24	18:00
Shell-Mot	b 125-3	264.56	+ 5.57	302.03	+ 5.57	339.49	+ 5.57	05/24	18:00
PSX	b 1-10	264.66	+ 5.80	281.83	+ 5.80	315.17	+ 5.80	05/24	18:00
Valero	b 1-10	264.73	+ 6.78	282.91	+ 6.78	318.26	+ 6.78	05/24	18:00
Chevron	b 1t45c	264.95	+ 5.95	284.95	+ 5.95	339.85	+ 5.95	05/24	18:00
DKTS	b 1-10	264.95	+ 6.53	-- --	-- --	291.95	+ 6.53	05/24	18:00
Texaco	b 1t45c	264.95	+ 5.95	284.95	+ 5.95	339.85	+ 5.95	05/24	18:00
Sunoco	b 125-3	265.03	+ 6.22	-- --	-- --	327.03	+ 6.22	05/24	18:00
XOM	b 125-3	265.16	+ 6.20	306.94	+ 6.21	340.10	+ 6.21	05/24	19:00
LOW RACK		258.45		278.10		291.95			
HIGH RACK		265.16		306.94		340.10			
RACK AVG		263.37		289.50		323.28			
OPIS GULF COAST DELIVERED SPOT (SRI)									
FOB DALLAS METRO		263.00		274.07		290.68			
BRD LOW RACK		258.45		281.83		291.95			
BRD HIGH RACK		265.16		306.94		340.10			
BRD RACK AVG		264.17		290.96		327.13			
UBD LOW RACK		260.10		278.10		300.10			
UBD HIGH RACK		263.10		297.32		331.95			
UBD RACK AVG		261.77		286.56		315.57			
CONT AVG-05/25		263.37		289.50		323.28			
CONT LOW-05/25		258.45		278.10		291.95			
CONT HIGH-05/25		265.16		306.94		340.10			

ADDITIONAL CONTRACT SUMMARY DATA - Effective 05/25

CONT BRD LOW	258.45	281.83	291.95
CONT BRD HIGH	265.16	306.94	340.10
CONT BRD AVG	264.17	290.96	327.13
CONT UBD LOW	260.10	278.10	300.10
CONT UBD HIGH	263.10	297.32	331.95
CONT UBD AVG	261.77	286.56	315.57

DALLAS, TX

LOW RETAIL	282.47
AVG RETAIL	319.79
LOW RETAIL EX-TAX	243.33
AVG RETAIL EX-TAX	280.65

Section 4 Required Federal and State Clauses

REQUIRED FEDERAL TRANSIT ADMINISTRATION THIRD-PARTY CONTRACT CLAUSES

1. PROHIBITED INTEREST

The vendor certifies that no member, officer, or employee of the Public Body or of a local public body during his or her tenure of one year thereafter shall have any interest, direct or indirect, in this contract of the proceeds thereof.

2. PRIVACY ACT

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract: The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor, or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

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

3. DRUG AND ALCOHOL TESTING

A contractor providing services involving the performance of safety sensitive activities must comply with 49 U.S.C. Section 5331 and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655.

4. BONDING

In accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5325(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

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

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

The Recipient agrees to require its third-party contractors and third party Subcontractors, at as many tiers of the Project as required, to provide to the U.S. Secretary of Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third-party contract records to the extent required by 49 U.S.C. § 5325(g). The Recipient further agrees to require its third-party Contractors and third-party Subcontractors, at as many tiers of the Project as required, to provide sufficient access to third party A bid guarantee from each Offeror equivalent to five (5) percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the Offeror will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified;

A performance bond on the part of the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the Contractor's obligations under such contract; and

A payment bond on the part of the Contractor. A payment bond is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts determined to adequately protect the federal interest are as follows:

- a. Fifty percent of the contract price if the contract price is not more than \$1 million;
- b. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
- c. Two and a half million dollars if the contract price is more than \$5 million.

5. HOUSE BILL 89

If required to make a certification pursuant to Texas Government Code Section 2271.02, the Vendor providing goods and services under a contract confirms that it does not and will not boycott Israel during the term of the contract.

6. SENATE BILL 13

Pursuant to Chapter 2274, Government Code, as enacted by S.B. 13, 87th Legislature, STAR Transit is prohibited from using public funds to contract with entities who boycott energy companies. By signing a contract, the Vendor verifies that it does not discriminate against energy companies and will not discriminate during the term of the contract.

7. SENATE BILL 19

Pursuant to Chapter 2274, Government Code, as enacted by S.B. 19, 87th Legislature, STAR Transit is prohibited from using public funds to contract with entities who discriminate against firearm and ammunition industries. By signing a contract, the Vendor agrees that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of a contract.



Consolidated Certification Form

This form is to assist subrecipients with managing the federal and state clauses related to the procurement they're interested in completing. This document complies with all pertinent federal and state regulations for each procurement type.

To begin, select the procurement's funding source. If TxDOT is the pass-through entity (Direct Recipient), both Federal and State must be checked.

Federal and State State Only

Federal Clauses – Procurement Types Summary:

All FTA-Assisted Third-Party Contracts and Subcontracts

1. No Federal Government Obligations to Third Parties
2. Access to Third Party Contract Records
3. Changes to Federal Requirements
4. Civil Rights (EEO, Title VI & ADA)
5. Incorporation of FTA Terms
6. Energy Conservation
7. Trafficking in Persons
8. False or Fraudulent Statements or Claims
9. Disadvantaged Business Enterprises (DBE)
10. Fly America
11. Americans with Disabilities Act (ADA) Access
12. Special Notification Requirements for States
13. Safe Operation of Motor Vehicles
14. Federal Tax Liability and Recent Felony Convictions
15. Program Fraud and False or Fraudulent Statements and Related Acts
16. Prompt Payment
17. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment
18. Conformance with ITS National Architecture
19. Severability

Award Exceeding \$10,000

20. Terminating the Contract
21. Solid Wastes

Award Exceeding \$25,000

22. Debarment and Suspension
23. Resolution of Disputes, Breaches, or Other Litigation

Award Exceeding \$50,000

24. Contracting with the Enemy

Award Exceeding \$100,000

25. Lobbying Restrictions

Award Exceeding \$150,000

26. Environmental Protection (Clean Air and Water Pollution Control)

All FTA-ASSISTED THIRD-PARTY CONTRACTS AND SUBCONTRACTS

1. No Federal Government Commitment or Liability to Third Parties

Except as the Federal Government expressly consents in writing, the Recipient agrees that:

- A. The Federal Government does not and shall not have any commitment or liability related to the Underlying Agreement, to any Third-Party Participant at any tier, or to any other person or entity that is not a party (FTA or the Recipient) to the Underlying Agreement; and
- B. Notwithstanding that the Federal Government may have concurred in or approved any Solicitation or Third-Party Agreement at any tier that may affect the Underlying Agreement, the Federal Government does not and shall not have any commitment or liability to any Third-Party Participant or other entity or person that is not a party (FTA or the Recipient) to the Underlying Agreement.

2. Access to Third-Party Contract Records

The Recipient agrees to require, and assures that each of its Subrecipients will require, its Third-Party Contractors at each tier to provide:

- A. The U.S. Secretary of Transportation and the Comptroller General of the United States, the state, or their duly authorized representatives, access to all Third-Party Contract records (at any tier) as required under 49 U.S.C. § 5325(g); and
- B. Sufficient access to all Third-Party Contract records (at any tier) as needed for compliance with applicable federal laws, regulations, and requirements or to assure.
- C. The Recipient will retain and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third-party Contracts of any type, and supporting materials related to those records.
- D. The Recipient agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. The Contractor shall maintain all books, records, accounts, and reports required under this Contract for a period of at not less than three (3) 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 records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

3. Changes to Federal Requirements

The Recipient agrees to include notice in each Third-Party Agreement that:

- A. Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and
- B. Applicable changes to those federal requirements will apply to each Third-Party Agreement and parties thereto at any tier.

4. Civil Rights

The Recipient agrees to apply these Federal Civil Rights laws and regulations apply to all contracts.

- A. Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to: a. Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity. b. Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

- B. Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
- C. Nondiscrimination on the Basis of Age. The “Age Discrimination Act of 1975,” as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.
- D. Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.
- E. Equal Opportunity: The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.
- I. Nondiscrimination. In accordance with 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, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
 - II. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., 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. chapter 60, and Executive Order No. 11246, “Equal Employment Opportunity in Federal Employment,” September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. 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, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, 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.
 - III. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, 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.
 - IV. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 - V. Promoting Free Speech and Religious Liberty. The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

5. Incorporation of Federal Transit Administration (FTA) Terms

The provisions within include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the current FTA Circular 4220 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 request which would cause a violation of the FTA terms and conditions.

6. Energy Conservation

The Recipient agrees to, and assures that its Subrecipients will, comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

7. Trafficking in Persons

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

- A. Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;
- B. Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or
- C. Use forced labor in the performance of the Recipient's Award or subagreements thereunder.

8. False or Fraudulent Statements or Claims

A. Civil Fraud. The Recipient acknowledges and agrees that:

- I. Federal laws, regulations, and requirements apply to itself and its Underlying Agreement, including 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.
- II. By executing the Underlying Agreement, the Recipient certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Recipient provides to the Federal Government.
- III. The Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Recipient presents, submits, or makes available any false, fictitious, or fraudulent information.

B. Criminal Fraud. The Recipient acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Recipient provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

9. Disadvantaged Business Enterprises

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 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- A. Withholding monthly progress payments;
- B. Assessing sanctions;
- C. Liquidated damages; and/or
- D. Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. §26.13(b).

In accordance with 49 C.F.R. § 26.29(a), Prime contractors agree to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the recipient makes to the prime contractor using direct federal funds, and no later than 10 days from receipt of payment the recipient makes to the prime

contractor using state or federal funds pass-through the Texas Department of Transportation (TxDOT) per TxDOT policy.

Finally, for contracts with defined DBE contract goals, each FTA recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the recipient's written consent; and that, unless the recipient's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

10. Fly America

The recipient agrees to comply with the air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 - 301-10.143.

11. ADA Access

The Recipient agrees to comply with the following federal prohibitions against discrimination based on disability:

A. Federal laws, including:

- I. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination based on disability in the administration of federally assisted Programs, Projects, or activities;
- II. The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:
 - a. For FTA Recipients generally, Titles I, II, and III of the ADA apply; but
 - b. For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of "employer;"
- III. 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 individuals with disabilities;
- IV. Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
- V. Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.

B. Federal regulations and guidance, including:

- I. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37;
- II. U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27;
- III. Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38;
- IV. U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39;
- V. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35;
- VI. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36;
- VII. U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630;
- VIII. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, subpart F;
- IX. U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194;
- X. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609;
- XI. FTA Circular 4710.1, "Americans with Disabilities Act: Guidance;" and

XII. Other applicable federal civil rights and nondiscrimination regulations and guidance.

12. Special Notification Requirements for States

- A. Types of Information. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
- I. The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
 - II. The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
 - III. The amount of federal assistance FTA has provided for a State Program or Project.
- B. Documents. The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

13. Safe Operation of Motor Vehicles

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or Agency.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

14. Federal Tax Liability and Recent Felony Convictions

- A. The contractor certifies that it:
- I. Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
 - II. Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third-Party Agreement with the Third-Party Participant without FTA’s written approval.

B. Flow-Down.

- I. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.

15. 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 authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) 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.

16. Prompt Payment

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. Per Texas Department of Transportation (TxDOT) policy, the 30-day payment window is reduced to 10-days from receipt of payment when the contractor is using state or federal funds pass-through TxDOT to reimburse subcontractors. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed. The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

17. Prohibition on certain telecommunications and video surveillance services or equipment.

Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- I. Procure or obtain;
- II. Extend or renew a contract to procure or obtain; or
- III. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- IV. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- V. Telecommunications or video surveillance services provided by such entities or using such equipment.
- VI. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

18. CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

19. SEVERABILITY

The Contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

Awards Exceeding \$10,000

20. Termination

A. Termination for Convenience

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency's best interest. The Contractor shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

B. Termination for Default [Breach or Cause]

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

C. Opportunity to Cure

The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions.

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

D. Waiver of Remedies for any Breach

In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

21. SOLID WASTES

A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Awards Exceeding \$25,000

22. Debarment and Suspension

The Recipient agrees to the following:

- A. It will comply with the following requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200.
- B. It will not enter into any "covered transaction" (as that phrase is defined at 2 C.F.R. §§ 180.220 and 1200.220) with any Third-Party Participant that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions, except as authorized by—
 - i. U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200;
 - ii. U.S. OMB regulatory guidance, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180; and
 - iii. Other applicable federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third-Party Participants.
- C. It will review the U.S. GSA "System for Award Management - Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs," if required by U.S. DOT regulations, 2 C.F.R. part 1200.
- D. It will ensure that its Third-Party Agreements contain provisions necessary to flow down these suspension and debarment provisions to all lower tier covered transactions.
- E. If the Recipient suspends, debars, or takes any similar action against a Third-Party Participant or individual, the Recipient will

provide immediate written notice to the:

- I. FTA Regional Counsel for the Region in which the Recipient is located or implements the Underlying Agreement;
- II. FTA Headquarters Manager that administers the Grant or Cooperative Agreement; or
- III. FTA Chief Counsel.

23. Resolution of Disputes, Breaches, or Other Litigation

A. FTA Interest

FTA has a vested interest in the settlement of any violation of federal law, regulation, or requirement, or any disagreement involving the Award, the accompanying Underlying Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.

B. Notification to FTA; Flow Down Requirement

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third-Party Agreements and must require each Third-Party Participant to include an equivalent provision in its sub-agreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

- I. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- II. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
- III. Additional Notice to U.S. DOT Inspector General. The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient. In this paragraph, “promptly” means to refer information without delay and without change. This notification provision applies to all divisions of the Recipient, including divisions tasked with law enforcement or investigatory functions.

C. Federal Interest in Recovery

The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the Recipient may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Recipient receives FTA's prior written concurrence.

D. Enforcement

The Recipient must pursue its legal rights and remedies available under any Third-Party Agreement or any federal, state, or local law or regulation.

E. Agency Process

*Vendors may view the dispute resolution process here:

Awards Exceeding \$50,000

24. Never Contract with the Enemy

The Recipient agrees to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered contracts, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

Awards Exceeding \$100,000

25. Lobbying Restrictions.

The Recipient agrees that neither it nor any Third-Party Participant will use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the Underlying Agreement, including any extension or modification, according to the following:

A. Laws, Regulations, Requirements, and Guidance. This includes:

- I. The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended;
- II. U.S. DOT regulations, “New Restrictions on Lobbying,” 49 C.F.R. part 20, to the extent consistent with 31 U.S.C. § 1352, as amended; and
- III. Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature; and

B. Exception. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Recipient's or Subrecipient's proper official channels.

C. Political Activity. The Recipient agrees to comply with:

- I. The Hatch Act, 5 U.S.C. chapter 15, which limits the political activities of state and local government agencies supported in whole or in part with federal assistance, including the political activities of state and local government officers and employees whose principal governmental employment activities are supported in whole or in part with federal assistance;
- II. U.S. Office of Personnel Management regulations, “Political Activity of State or Local Officers or Employees,” 5 C.F.R. part 151; and
- III. 49 U.S.C. § 5323(l)(2) and 23 U.S.C. § 142(g), which limits the applicability of the Hatch Act, as follows:
 - a. The Hatch Act does not apply to nonsupervisory employees of a public transportation system, or any other agency or entity performing related functions, based upon the Award of federal assistance under 49 U.S.C. chapter 53 or 23 U.S.C. § 142(a)(2); but
 - b. Notwithstanding the preceding section 4(e)(3)(ii) of this Master Agreement, the Hatch Act does apply to a nonsupervisory employee if imposed for a reason other than the Award of federal assistance to its employer under 49 U.S.C. chapter 53 or 23 U.S.C. § 142(a)(2).

D. Lobbying and Disclosure Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification

shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.

Name of Company	Printed Name of Person Completing Form
Date	Signature

Awards Exceeding \$150,000

26. Environmental Protection (Clean Air and Clean Water)

The Recipient agrees to comply with the regulations within the Clean Air Act (42 U.S.C. §§ 7401 - 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 - 1388), as amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 - 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 - 1388). Violations must be reported to the 64 Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

State of Texas Procurement Contract Clauses

State of Texas - Procurement Types Summary:

All Texas-Assisted Third-Party Contracts and Subcontracts

1. Debarment
2. Family Code Child Support Obligation Certification
3. Debts and Delinquencies Affirmations
4. Disaster Recovery Plan
5. Disclosure of Prior State Employment
6. Entities that Boycott Israel
7. Federal Executive Order 13224 Excluded Parties
8. False Statements
9. Financial Participation Prohibited Affirmation
10. Foreign Terrorist Organizations
11. Disaster Relief Contract Violation
12. Public Information Act
13. Signature Authority
14. State Auditor's Right to Audit
15. Suspension and Debarment
16. Assignment
17. Contracting Information Responsibilities
18. Human Trafficking Prohibition
19. Energy Company Boycotts
20. Firearm Entities and Trade Association Discrimination
21. No Conflicts of Interest

1. 34 TAC §20.585 Debarment

The Recipient agrees that The State of Texas, in order to protect the interests of the state may:

- A. Conduct an investigation upon a complaint regarding a contractor's acts and omissions in procurement or performance of that contract where the complaint may constitute cause for debarment;
- B. Cancel one or more of the contractor's active or pending contracts upon a complaint regarding the contractor's acts and omissions in procurement or performance of that contract where the complaint may constitute cause for debarment;
- C. Assess actual damages and costs incurred due to contractor's failure to perform as specified in the contract;
- D. Debar a contractor for a specified period of time; and
- E. Take any other action authorized by law.

2. §231.006 Family Code Child Support Obligation Certification

Under Section 231.006(d) of the Texas Family Code, the Sub-recipient certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified GRANT and acknowledges that this Agreement may be terminated and payment or grant funds may be withheld if this certification is inaccurate.

3. §2252.903 Gov't Code Debts and Delinquencies Affirmations

Sub-recipient agrees that any payments due it under the Agreement shall be applied toward any debt or delinquency that is owed to the State of Texas.

4. §444.190 Gov't Code Disaster Recovery Plan

In accordance with 13 TAC (Texas Administrative Code) §6.94(a)(9), Sub-recipient shall provide descriptions of its business continuity and disaster recovery plans

5. §2254.033 Gov't Code Disclosure of Prior State Employment

In accordance with Section 2254.033 of the Texas Government Code, relating to consulting services, RESPONDENT certifies that it does not employ an individual who has been employed by TxDOT or another agency at any time during the two years preceding the submission of the Response or, in the alternative, RESPONDENT has disclosed in its Response the following:

- A. The nature of the previous employment with TxDOT or the other agency;
- B. The date the employment was terminated; and
- C. The annual rate of compensation for the employment at the time of its termination.

6. §2271.001 Gov't Code Entities that Boycott Israel

Pursuant to Section 2271.001 of the Texas Government Code, Sub-recipient certifies that either:

- A. It meets an exception criterion under Section 2271.002, or
- B. It does not boycott Israel and will not boycott Israel during the term of this Agreement. Sub-recipient shall in a writing to TxDOT state any fact(s) that make it exempt from the boycott certification.

7. Federal Executive Order 13224 Excluded Parties

Sub-recipient certifies that it is not listed on the prohibited vendors list authorized by Executive Order 13224, Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism”, published by the United States Department of the Treasury, Office of Foreign Assets Control.

8. §2155.077(a)(2) Gov't Code False Statements

Sub-recipient represents and warrants that all statements and information prepared and submitted in this document are current, complete, true and accurate. Submitting a false statement or material misrepresentation made during the performance of a contract is a material breach of contract and may void this agreement.

9. §2155.004 Gov't Code Financial Participation Prohibited Affirmation

Under Section 2155.004(b) of the Texas Government Code, Sub-recipient certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified agreement/GRANT and acknowledges that this agreement may be terminated, and payment withheld if this certification is inaccurate.

10. §2252.152 Gov't Code Foreign Terrorist Organizations

Sub-recipient represents and warrants that is not engaged in business with Iran, Sudan, or a foreign terrorist organization as prohibited by Section 2252.152 of the Texas Government Code.

11. §2155.006 and 2261.053 Gov't Code Prior Disaster Relief Contract Violation

Under Sections 2155.006 and 2261.053 of the Texas Government Code, the Sub-recipient certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified agreement/GRANT and acknowledges that this agreement may be terminated and payment withheld if this certification is inaccurate.

12. Chapter 552, Gov't Code and §2252.907 Gov't Code Public Information Act

Information, documentation, and other material in connection with this Agreement may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the “Public Information Act”). In accordance with Section 2252.907 of the Texas Government Code, the Sub-recipient is required to make any information created or exchanged with the State pursuant to the Agreement and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

13. §2252.0012 Gov't Code Signature Authority

The Sub-recipient represents and warrants that the individual executing this Agreement is authorized to sign this Agreement on behalf of the Sub-recipient and to bind the Sub-recipient.

14. §2262.154 Gov't Code State Auditor's Right to Audit

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. The acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

15. §2155.077 Gov't Code Suspension and Debarment

Sub-recipient certifies that it and its principals are not suspended or debarred from doing business with the State of Texas or federal government as listed on the State of Texas Debarred Vendor List as maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration.

16. §2262.056 (b) Gov't Code Assignment

Sub-recipient shall not assign its rights under the Agreement or delegate the performance of its duties under the Agreement without prior written approval from the TxDOT. Any attempted assignment in violation of this provision is void and without effect.

17. §552.372 Gov't Code Contracting Information Responsibilities

In accordance with Section 552.372 of the Texas Government Code, Sub-recipient agrees to:

- A. preserve all contracting information related to the Agreement as provided by the records retention requirements applicable to TxDOT for the duration of the Agreement,
- B. promptly provide to TxDOT any contracting information related to the Agreement that is in the custody or possession of the Sub-recipient on request of TxDOT, and
- C. on termination or expiration of the contract, either provide at no cost to TxDOT all contracting information related to the Agreement that is in the custody or possession of the Sub-recipient or preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to TxDOT. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552, Government Code, may apply to the Agreement and the Sub-recipient agrees that the Agreement can be terminated if the Sub-recipient knowingly or intentionally fails to comply with a requirement of that subchapter.

18. §2155.0061 Gov't Code Human Trafficking Prohibition

Under Section 2155.0061 of the Texas Government Code, the Sub-recipient certifies that the individual or business entity named in the Agreement is not ineligible to receive the specified Agreement/GRANT and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

19. §2274.002 Energy Company Boycotts

If Respondent is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Respondent verifies that Respondent does not boycott energy companies and will not boycott energy companies during the term of the Contract. If Respondent does not make that verification, Respondent must so indicate in its Response and state why the verification is not required.

20. §2274 Firearm Entities and Trade Association Discrimination

If Respondent is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Respondent verifies that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. If Respondent does not make that verification, Respondent must so indicate in its Response and state why the verification is not required.

21. §2252.908, 2254.032, 2261.252(b) No Conflict of Interest

Respondent represents and warrants that the provision of goods and services or other performance under the contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.

Certification to Purchaser

1. The undersigned vendor certifies that the manufactured good(s) furnished will meet or exceed the specifications, and/or that services rendered will comply with the terms of the solicitation or contract.
2. The undersigned vendor certifies that it has read all of the bid, proposal, or contract documents and agrees to abide by the terms, certifications, and conditions thereof.

Name of Company:

Address:

Telephone:

SS# or Tax ID#:

Printed Name of Person Completing Form:

Signature

Date:

Description of Commodity Service:

Disadvantaged Business Enterprise Information

Type of Organization (check the application type of organization)

Sole Proprietorship General Proprietorship Corporation Limited Partnership Limited Proprietorship

Is your firm a DBE? Yes No

If yes, what type?

4a. Federal Materials & Supplies Related Clauses

- A. Cargo Preference
- B. Recycled Products
- C. Termination for Default
 - Awards Exceeding \$150,000
- D. Buy America

A. Cargo Preference

The contractor agrees to comply with the shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 C.F.R. part 381.

B. Recycled Products

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

C. Termination for Default

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Awards Exceeding \$150,000

D. Buy America

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7.

Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements.

The bidder or offeror must submit to the Agency the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive. For more information, please see the FTA's Buy America webpage at: <https://www.transit.dot.gov/buyamerica>

Buy America Certification

Except as the Federal Government determines otherwise in writing, the Recipient agrees to comply with FTA's U.S. domestic preference requirements and follow federal guidance of 49 U.S.C. § 5323(j), and FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with 49 U.S.C. § 5323(j);

If steel, iron, or manufactured products (as defined in 49 CFR 661.3 and 661.5) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder or offeror in accordance with the requirement contained in 49 CFR 661.13(b).

Buy America Certification

Buy America (Check where Applicable):

- The vendor or offeror hereby certifies it will comply with the requirements of 49 USC 5323(j) and the applicable regulations in 49 CFR 661, providing Buy America compliant manufactured goods or rolling stock.
- The vendor or offeror cannot comply with the requirements 49 USC 5323(j), but may qualify for an exception to the requirement pursuant to the regulations in 49 CFR 661.

Name of Company	Printed Name of Person Completing Form
Date	Signature

Materials and Supplies Related Clauses

The undersigned vendor certifies to abide by these clauses and include the following clauses in each subcontract financed in whole or in part with Federal Transit Administration (FTA) funds. Vendors are certifying by reference the entire list FTA's current fiscal year Certifications and Assurances (for fiscal year _____), and shall download the at:

<https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>.

Name of Company	Printed Name of Person Completing Form
Date	Signature

4b. State of Texas Required Clauses: Materials & Supplies Related Clauses

A. Dispute Resolution

A. §2260.004 Gov't Code Dispute Resolution

The Recipient agrees to the dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute under this Agreement.

Materials and Supplies Related Certification

The undersigned vendor certifies to abide by these clauses and include the following clauses in each subcontract financed in whole or in part with State of Texas funds.

Name of Company	Printed Name of Person Completing Form
Date	Signature