



# REQUEST FOR PROPOSALS 18-1825

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LIABILITY CLAIMS ADJUSTER

Jack Van Hooser

6/8/2018



**REQUEST FOR PROPOSALS #18-1825  
LIABILITY CLAIMS ADJUSTER**

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## INTRODUCTION

Sealed proposals shall be received by the Metropolitan Tulsa Transit Authority (Tulsa Transit), Attention Accounting & Grants Manager, at 510 S. Rockford, Tulsa, Oklahoma at or before **4:30PM Central Standard Time, Thursday, July 19, 2018** for a Liability Claims Adjuster as described in this Request For Proposal (RFP) document. Proposals received after the date and time specified above shall be considered late proposals and shall not be considered.

Tulsa Transit reserves the right, in its sole and exclusive discretion to accept or to reject any and all proposals, in whole or in part. All proposals shall be subject to all applicable state and federal laws. The award to be let under this solicitation is subject to financial assistance contracts between Tulsa Transit, the Federal Transit Administration and the State of Oklahoma. Proposal documents shall be clearly marked with the RFP number and shall be mailed or delivered to:

Metropolitan Tulsa Transit Authority  
ATTN: Jack Van Hooser  
Accounting & Grants Manager  
510 S. Rockford  
Tulsa, Oklahoma 74120

The anticipated schedule for selection of a Proposer is as follows:

Request for Proposal Released	<b>June 8, 2018</b>
Advertisement	<b>June 17 and June 24, 2018</b>
Deadline for Questions Regarding the RFP	<b>July 6, 2018 @ 4:30 p.m.</b>
Proposals Due	<b>July 19, 2018, @ 4:30 p.m.</b>
Contract Award	<b>July 31, 2018</b>

## **SECTION I**

### **INSTRUCTIONS TO PROPOSERS**

#### **1. PROPOSAL FORMAT**

Tulsa Transit requires three copies of all documents, one unbound original and two copies. Each must be clearly labeled on the front sheet. In addition, an electronic copy is required. Proposals shall be prepared simply and economically on letter sized paper with tabbed or marked sections. Documents can be stapled or assembled with a plastic spine. No three ring binders please. Prices must be included on the form provided.

#### **2. TERMS AND CONDITIONS**

All proposals are subject to the provisions specified in this RFP, including federal clauses. Terms and conditions included as a part of published price lists, catalogs, and/or other documents submitted as a part of the proposal are waived and will have no effect either on the proposal, or any contract which may be awarded as a result of the proposal. The attachment of any other terms and conditions may be grounds for rejection.

#### **3. DUE DATE**

Sealed proposals must be received by Tulsa Transit no later than **4:30PM Central Standard Time on July 19, 2018.**

#### **4. CONTACT INFORMATION**

For questions or additional information, contact the buyer via email: Jack Van Hooser, Accounting & Grants Manager, [jvhooser@tulsatransit.org](mailto:jvhooser@tulsatransit.org), or call him at (918) 560-5609. Include the RFP number on the subject line of all email correspondence.

Proposers are encouraged to contact the Accounting & Grants Manager by email if there is anything in the specifications that would prevent you from submitting a proposal. Questions must be received no later than .

#### **5. BIDDER'S NOTICE OF INTENT TO SUBMIT A PROPOSAL**

Email the Accounting & Grants Manager indicating your intent to submit a proposal. Include the RFP number on the subject line of the email. You will receive an email response indicating your notice was received. The same procedure will be followed to request clarification in writing of any point in the RFP.

#### **6. AMENDMENTS TO THE REQUEST FOR PROPOSALS**

Any amendments to the solicitation will be posted on the Tulsa Transit web site at <http://tulsatransit.org/about-Tulsa-Transit/procurements-and-dbe/>. In addition, any bidder that has submitted a Notice of Intent to Submit a Proposal via email will be notified of any amendment by email. The bidder will be required to acknowledge the receipt of all amendments as part of the proposal package.

**7. ACCEPTANCE AND REJECTION**

Tulsa Transit reserves the right to reject any and all proposals, to waive any informality in proposals, and unless otherwise specified by the offer, to accept any item in the proposal. If either a unit price or extended price is obviously in error or the other price is obviously correct, the incorrect price will be disregarded. Tulsa Transit reserves the right to make partial, progressive or multiple awards where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas, or other factors deemed by Tulsa Transit to be pertinent or peculiar to the purchase in question.

**8. TIME FOR CONSIDERATION**

The offer shall be valid for a minimum of 120 days from the date of proposal opening.

**9. PAYMENT TERMS**

Payment terms are Net 30 days after receipt of a correct invoice or acceptance of goods, whichever is later.

**10. CONDITION OF GOODS**

Unless otherwise indicated in the proposal, it is understood and agreed that any item offered or shipped pursuant to this RFP or resulting contract shall be new.

**11. DEVIATIONS FROM SPECIFICATIONS**

Any deviation from specifications indicated herein must be clearly stated by the proposer in writing; otherwise, all items offered by proposer shall be deemed to be in strict compliance with these specifications, and the successful proposer will be held responsible thereto. Deviations must be explained in detail by proposer on an attached sheet(s). This paragraph shall not be construed as inviting or permitting any deviation whatsoever by proposer from the stated specifications, or implying that any such deviation will be acceptable to Tulsa Transit.

**12. INFORMATION AND DESCRIPTIVE LITERATURE**

Proposers are to furnish all information requested in the spaces provided on the proposal form. Further, as may be specified elsewhere, each proposer must submit with its proposal descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous proposal does not satisfy this provision.

**13. CONFIDENTIALITY OF PROPOSALS**

Access to records received by or generated by Tulsa Transit is governed by Oklahoma law. Any information the proposer judges to be proprietary data should be submitted in a separate sealed envelope and clearly marked as proprietary information.

#### **14. PRICING / QUANTITY**

Pricing information is required in accordance with the Price Proposal Sheet included in this RFP. Base quantities and priced option quantities are defined on the price proposal sheet. The term of this contract is for five years with the option for an additional five year term.

#### **15. SIGNATURE REQUIREMENTS FOR PROPOSAL DOCUMENTS**

All documents submitted, as part of a proposal package must be signed by the person having the legal authority to bind the corporation or firm, and that signature must be attested / notarized. Failure to comply with the signature requirements may result in the proposal being rejected as non-responsive.

#### **16. PROPOSAL EVALUATION**

Tulsa Transit shall evaluate all proposals using the factors listed below and shall select the proposal that represents the "best value." Pursuant to Federal Transit Administration purchasing guidelines, an award will be made to the responsible proposer whose proposal is most advantageous to Tulsa Transit with price and other factors considered. The evaluation criteria for this RFP are:

##### **Proposed Total Price (35%)**

Price will be evaluated on the basis of being advantageous to Tulsa Transit.

##### **Relevant Related Experience (30%)**

Experience directly or indirectly related to the scope of work required.

##### **Qualifications, Experience and History of the Firm (35%)**

Proposals will be evaluated based on the proposer's experience in the business of providing pest control services, the proposer's record of customer responsiveness, and financial stability. Tulsa Transit will contact references to determine the proposer's history of meeting schedules and other contract commitments.

##### **Bonus Points**

The proposer will be offered up to 5 additional bonus points for Oklahoma certified Disadvantaged Business Enterprise (DBE) participation.

#### **17. PROOF OF INSURANCE**

Proposals must include proof of insurance at the minimal levels required in the general terms contained in this RFP.

#### **18. CONFLICTS OF INTEREST**

Proposer must identify any conflicts of interest that exist related to past, present or planned activities or interests, financial or otherwise, with regard to Tulsa Transit or organizations that may be substantially affected by Tulsa Transit activities. In the absence of any known conflict of interest, the proposer shall submit in its proposal a statement that no conflicts of interest exist.

## **19. POST AWARD**

A post-award debriefing is provided to un-successful proposers upon written request. Tulsa Transit shall provide the following information, if applicable:

- The agency's evaluation of the proposer's proposal or bid, including any noted deficiencies or weaknesses.
- The overall evaluation summary, including rating for each evaluation criteria for the debriefed proposer.
- The overall ranking of all offers, when any ranking was developed by the agency during source selection.
- A summary of rationale for award.
- For acquisitions of commercial items, the make and model of the item to be delivered by the successful proposer.

## **20. PROTEST PROCEDURES**

Tulsa Transit has on file a set of written protest procedures applicable to this solicitation that may be obtained by contacting Tulsa Transit's procurement officer. Any protest filed by a proposer in connection with the RFP must be submitted in accordance with Tulsa Transit's written procedures.



## **SECTION II**

### **LIABILITY CLAIMS ADJUSTER SCOPE OF WORK**

This specification describes the requirements to provide administration of auto and general liability and claims service as specified in the RFP. Tulsa Transit provides its auto and general liability claims program under a self-insurance plan that is administered by a third party administrator. Such services would include, but not be limited to the review, analysis, recommendation and placement of insured and self-funded program in the areas of safety & loss control, property, casualty and liability coverage. Also included would be policy review and audit, monitoring, and servicing appropriate claims.

### **EXPECTATIONS AND RESPONSIBILITIES**

- 1 Provide monthly reports detailing activity of claims.
- 2 Monitor and maintain a revolving claim payments fund and provide invoices with appropriate documentation for accounting and auditing purposes.
- 3 Accident/incident scene investigation as needed and requested by Tulsa Transit. When requested, such response should be immediate based on the nature of the accident.
- 4 Communicate with claimant in efforts to resolve claims in a professional and timely manner. Such communication may include, but not be limited to, verbal or written communication and possibly hospital visits if claimant is in the hospital due to a bus accident.
- 5 Communicate professionally with Tulsa Transit's legal counsel to resolve claims.
- 6 Communicate consistently and professionally with Tulsa Transit's staff to resolve claims.
- 7 Obtain approval from Tulsa Transit prior to payout on any claim that will cost Tulsa Transit \$5,000 or more.
- 8 Medicare reporting of liability insurance, if required.
- 9 The name of the individual or individuals to be directly responsible for providing the services requested by Tulsa Transit. Include a summary of their prior experience and educational training.

## **SECTION III**

### **PROPOSAL FORMS**

In addition to the federal certifications and representations that are required to be submitted with the proposal. The following additional forms shall be included.

1.0 Price Proposal Form

2.0 DBE Qualification Form

3.0 Statement of Bidder's / Proposer's Qualifications

4.0 Authorization for Information

5.0 Customer Reference Listing

**1. PRICE PROPOSAL FORM**

The undersigned Proposer hereby submits to MTTA this proposal for a Liability Claims Adjuster

		<u>Annual Cost</u>
Cost – Year 1:	Aug 1, 2018 to June 30, 2019	\$ _____
Cost – Year 2:	July 1, 2019 to June 30, 2020	\$ _____
Cost – Year 3:	July 1, 2020 to June 30, 2021	\$ _____
Cost – Option Year 4:	July 1, 2021 to June 30, 2022	\$ _____
Cost – Option Year 5:	July 1, 2022 to June 30, 2023	\$ _____

Proposer: \_\_\_\_\_  
 (Name of Company)

By \_\_\_\_\_  
 (Print Name) (Authorized Signature)

\_\_\_\_\_ (Title) \_\_\_\_\_ (Date)

Proposer Declaration:

1. That proposer has carefully read and fully understands the full scope of the Specifications.
2. That proposer has the capability to successfully undertake and complete the responsibilities and obligations in said Specifications.
3. That this proposal may be withdrawn by requesting such withdrawal in writing at any time prior to proposal opening, but may not be withdrawn after proposal opening date and time.
4. That the MTTA reserves the right to award or reject any or all proposals and to accept that proposal which will, in its opinion, best serve the public interest. MTTA reserves the right to waive any technicalities and formalities in the Proposal/Bidding.
5. I acknowledge receipt of addenda number(s). If more than four addenda are required, please write in the appropriate addenda information and initial.

Addenda # 1 Date \_\_\_\_\_ Initialed \_\_\_\_\_  
 Addenda # 2 Date \_\_\_\_\_ Initialed \_\_\_\_\_  
 Addenda # 3 Date \_\_\_\_\_ Initialed \_\_\_\_\_  
 Addenda # 4 Date \_\_\_\_\_ Initialed \_\_\_\_\_

**DBE QUALIFICATION FORM**

\_\_\_ Is your firm certified as a DBE with the Oklahoma Department of Transportation (ODOT).

Does your firm meet the following requirements to qualify as a DBE under the DOT DBE program:

\_\_\_ Disadvantaged owners are U. S. citizens or legal permanent residents.

\_\_\_ Firm’s annual gross income does NOT exceed \$17,20 million (averaged over 3 years).

\_\_\_ Firm is at least 51% owned and controlled by socially and economically disadvantaged individuals.

\_\_\_ Firm meets SBA small business size in the primary industry group (13 CFR part 121).

\_\_\_ Firms owned by ANC’s Indian Tribes, and Native Hawaiian Organizations, meet the small business size requirements and are controlled by socially and economically disadvantaged individuals.

\_\_\_ Firms and owners meet the requirements of part 26 concerning licenses and credentials.

\_\_\_ Firms must be for profit.

\_\_\_ Please check here if this does not apply to your company.

Contact Liann Alfaro at [lalfaro@tulsatransit.org](mailto:lalfaro@tulsatransit.org) should you need information regarding DBE Certification.

Please print the following information:

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

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

Title \_\_\_\_\_

Date \_\_\_\_\_

**2. STATEMENT OF BIDDER'S/ PROPOSER'S QUALIFICATIONS (Page 1 of 2)**

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. Should this page not be part of the bid/proposal packet, you're bid will be classified as not in compliance and may be disqualified. The questions may be answered on separate attached sheets. Bidder/Proposer may submit additional information he/she desires.

1. Name of Bid/Proposer \_\_\_\_\_
2. Permanent Main Office Address \_\_\_\_\_
3. Office Phone \_\_\_\_\_ Cell Phone \_\_\_\_\_
4. Fax Number \_\_\_\_\_ E-mail Address \_\_\_\_\_
5. When Organized \_\_\_\_\_
6. If a Corporation, where Incorporated \_\_\_\_\_
7. How many years have you been engaged in business under your present firm or trade name? \_\_\_\_\_
8. List previous business names, if any \_\_\_\_\_
9. Have you ever failed to complete any work awarded to you? \_\_\_\_\_
10. Have you ever defaulted on a Contract Agreement? \_\_\_\_\_
11. If you answered yes to 9 or 10 above attach explanation.
12. Attach background and experience of the principal members of your organization, including the officers.
13. DUNS # \_\_\_\_\_ Provide D&B report or other statement of credit.

**Bidder/Proposer may submit any additional information he/she desires.**

**STATEMENT OF BIDDER'S / PROPOSER'S QUALIFICATIONS (Page 2 of 2)**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Being duly sworn deposes and says that he/she is \_\_\_\_\_ (Title)  
and that the answers to the foregoing questions and all statements therein contained are true  
and correct.

By: \_\_\_\_\_

Name of Corporation or Firm: \_\_\_\_\_

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

State of \_\_\_\_\_

County of \_\_\_\_\_

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

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

Notary Number \_\_\_\_\_

My Commission Expires \_\_\_\_\_



**3. AUTHORIZATION FOR INFORMATION**

The undersigned hereby authorized and requests any person, firm, or corporation to furnish any information requested by Tulsa Transit in verification of the recitals comprising this Statement of Proposer's Qualifications that I, being duly sworn deposes and says that the answers to the foregoing questions and all statements contained and true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_

Name of Corporation or Firm: \_\_\_\_\_

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

State of \_\_\_\_\_

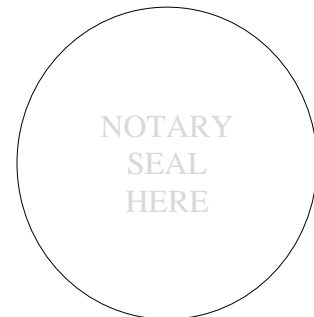
County of \_\_\_\_\_

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

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

Notary Number \_\_\_\_\_

My Commission Expires \_\_\_\_\_



**4. CUSTOMER REFERENCE LISTING**

Vendor shall furnish the names, addresses, agreement, telephone numbers, and length of services and size of property of a minimum of five (5) firms or government organizations for which the vendor is currently furnishing or has in the past furnished service for.

1. COMPANY NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_  
TELEPHONE NUMBER \_\_\_\_\_  
MONTH/YEAR COMPLETED \_\_\_\_\_  
VALUE OF CONTRACT \_\_\_\_\_

2. COMPANY NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_  
TELEPHONE NUMBER \_\_\_\_\_  
MONTH/YEAR COMPLETED \_\_\_\_\_  
VALUE OF CONTRACT \_\_\_\_\_

3. COMPANY NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_  
TELEPHONE NUMBER \_\_\_\_\_  
MONTH/YEAR COMPLETED \_\_\_\_\_  
VALUE OF CONTRACT \_\_\_\_\_

4. COMPANY NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_  
TELEPHONE NUMBER \_\_\_\_\_  
MONTH/YEAR COMPLETED \_\_\_\_\_  
VALUE OF CONTRACT \_\_\_\_\_

5. COMPANY NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_  
TELEPHONE NUMBER \_\_\_\_\_  
MONTH/YEAR COMPLETED \_\_\_\_\_  
VALUE OF CONTRACT \_\_\_\_\_



**SECTION IV  
GENERAL TERMS**

The following clauses will be incorporated in any contract awarded pursuant to this RFP.

**1. ASSIGNMENT**

A. The successful proposer may not assign or subcontract its rights or obligations under the contract without prior written permission of Tulsa Transit, and no such assignment or subcontract will be effective until approved in writing by Tulsa Transit.

B. Tulsa Transit reserves the right to assign all or a portion of this contract to any other agency and/or governmental entity, or a Contractor of Tulsa Transit.

**2. INSURANCE AND INDEMNITY**

(a) The Proposer assumes all risks incident to, or in connection with, its purpose to be conducted under or pursuant to the Contract, and to the extent allowed by law shall indemnify, defend and save harmless Tulsa Transit from damages, losses or injuries of whatever nature or kind to persons or property arising, directly or indirectly, out of the Proposer's operations or arising from acts or omissions of its agents, employees or sub-contractors. The Proposer to the extent allowed by law shall indemnify, defend and save harmless Tulsa Transit from any penalties for violation of any law, ordinance or regulation affecting or having application to said operations, acts and omissions, or resulting from the carelessness, negligence or improper conduct of the Proposer or any of its agents, employees or sub-contractors, and from the negligence Tulsa Transit or its employees in connection with the work or work site. The presence of, or inspections by, employees or other representatives of Tulsa Transit shall in no manner diminish or affect the duties, obligations or responsibilities of the Proposer. The obligations imposed by this paragraph shall not be limited or extinguished by any obligation to provide insurance or by the provision of insurance.

(b) During the entire term of the Contract, the Proposer shall provide, pay for, and maintain with insurance companies satisfactory to Tulsa Transit and admitted to do business in Oklahoma, the following types of casualty and liability insurance:

(i) Worker's Compensation. If the Proposer will have employees in Oklahoma working on this project, proposer shall maintain, during the term of the Contract, Worker's Compensation Insurance as prescribed by the laws of the State of Oklahoma, and Employer's Liability Insurance for all of its employees employed at any project work sites. If any work is subcontracted, the Proposer shall require the sub-contractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the sub-contractor's employees, unless such employees are covered by the insurance purchased by the Proposer. In the event any class of employees engaged in work performed under the Contract or at the site of the project is not protected under such insurance heretofore mentioned, the Proposer shall provide or shall cause each sub-contractor to provide adequate insurance for the protection of the employees not otherwise protected.

(ii) Commercial General Liability. If the Proposer will have employees in Oklahoma working on this project, proposer shall carry a policy of commercial general liability insurance. If the Proposer's Commercial General Liability coverage is written in a "claims-made" form, Proposer shall also provide tail coverage that extends a minimum of two years from the expiration of this Contract.

(iii) Automobile Liability Insurance. If the Proposer will have employees in Oklahoma working on this project, proposer shall maintain insurance coverage as to the ownership, maintenance, and use of all owned, non-owned, leased or hired vehicles.

(c) Required insurance shall be carried and maintained throughout the term of this Contract. Certificates of insurance shall contain a statement by the insurer to the effect that the policy may not be canceled, fail to be renewed, or the limits decreased without thirty (30) days prior written notice to Tulsa Transit. The insurance coverage and limits required must be evidenced by properly executed Certificates of Insurance showing the project number and description as indicated in the Contract. The Certificate must be signed by an authorized representative of the insurance companies shown in the Certificate. No work or occupancy of any worksites shall commence at the site unless and until the required Certificates of Insurance are in effect and the written Notice to Proceed is issued to the Proposer. Certificates shall be standard industry forms, such as ACORD, or in the form included in these specifications.

(d) The amount of liability insurance coverage shall not be less than \$1,000,000. All liability and property policies as to which Tulsa Transit is not a named insured shall to the extent allowed by law provide by endorsement or appropriate coverage language that Tulsa Transit is an additional insured. The required policies of insurance shall be construed in accordance with the laws of the State of Oklahoma.

(e) No less than thirty (30) days prior written notice by registered or certified mail shall be given to Tulsa Transit of any cancellation, intent not to renew, or reduction in the policies' coverage except in the application of the aggregate limits provisions. In the event of a reduction in any aggregate limit, the Proposer shall take immediate steps to have the full amount of the limits appearing on the certificate reinstated. If at any time Tulsa Transit requests a written statement from the insurance company(s) as to any impairments to the aggregate limit, the Proposer hereby agrees to promptly authorize and have delivered to Tulsa Transit such statement. The Proposer shall cover any impairment when known to it. The Proposer authorizes Tulsa Transit to confirm all information so furnished, as to Proposer's compliance with its bonds and insurance requirements, with the Proposer's insurance agents, brokers, surety, and insurance carriers. All insurance coverage of the Proposer shall be primary to any insurance or self-insurance program carried by Tulsa Transit.

(f) Any deductibles or self-insured retentions in excess of \$10,000, or any other risk-management scheme other than a fully insured program of commercial general liability and automobile liability insurance, must be declared by the Proposer and be approved in advance by Tulsa Transit. At the option of Tulsa Transit, the Proposer shall require the insurer to reduce or eliminate such deductibles or self-insured retentions with respect to Tulsa Transit, or the

Proposer shall procure a bond guaranteeing payment of the losses and related investigations, claims administration and defense expenses not otherwise covered by Proposer's insurance because of deductibles or self-insurance retentions.

(g) Proposer shall provide certified, true and exact copies of all insurance policies required, on a timely basis, if requested. In addition, each insurer who issues a certificate of insurance is obligated to provide a copy of the policy upon request.

### **3. WARRANTY**

Proposer guarantees that all equipment offered will be free from any and all defects in material and workmanship and warrants the same for a MINIMUM period of one (1) year, such warranty shall cover the cost of all service, parts, labor, and travel to and from points of service.

### **4. ADVERTISING**

Proposer agrees not to use the existence of this contract or the name of Tulsa Transit as a part of any commercial advertising without the prior written approval of Tulsa Transit's General Manager or designee.

**SECTION V  
FEDERAL TERMS AND CONDITIONS**

The following terms and conditions apply to this procurement

**1. FLY AMERICA REQUIREMENTS  
49 U.S.C. § 40118  
41 CFR Part 301-10**

**Fly America Requirements**

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

**2. ENERGY CONSERVATION REQUIREMENTS  
42 U.S.C. 6321 et seq. 49 CFR Part 18**

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

**3. ACCESS TO RECORDS AND REPORTS  
49 U.S.C. 5325 18 CFR 18.36 (i) 49 CFR 633.17**

**Access to Records** - The following access to records requirements apply to this contract:

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

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

(3) 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.

(4) 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).

(5) FTA does not require the inclusion of these requirements in subcontracts.

#### **4. FEDERAL CHANGES 49 CFR Part 18**

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

#### **5. NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

##### **No Obligation by the Federal Government**

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

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

**6. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**  
**31 U.S.C. 3801 et seq. 49 CFR Part 31 18 U.S.C. 1001 49 U.S.C. 5307**

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

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

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

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

**7. TERMINATION**  
**49 U.S.C. Part 18 FTA Circular 4220.1F**

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

(2) Termination for Default (Supplies and Service): If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract, or any extension, or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in

accordance with the manner or performance set forth in this contract.

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

(3) Opportunity to Cure (General Provision): The Recipient, 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 (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from (Recipient) setting forth the nature of said breach or default, (Recipient) 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 (Recipient) from also pursuing all available remedies against Contractor and its sureties for said breach or default.

(4) Waiver of Remedies for any breach in the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

## **8. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)**

### **Suspension and Debarment**

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

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

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

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

## 9. CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000, 42 U.S.C. § 6102, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49 U.S.C. § 5332, 29 CFR Part 1630, 41 CFR Parts 60 et seq.

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

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

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

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

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

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



to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

## **10. DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 CFR Part 26**

### **Disadvantaged Business Enterprises**

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 1%. A separate contract goal has not been established for this procurement.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as {insert agency name} deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)). The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 15 days from the receipt of each payment the prime contractor receives from MTTA. The prime contractor agrees further to return any retainage payments to each subcontractor within 20 days after the subcontractor's work is satisfactorily completed. Should payment not be rendered in a timely manner, MTTA shall hold an informal hearing, where the contractor and subcontractor, meet with representatives from MTTA. After hearing from both parties, a decision will be rendered within five days, detailing the consequences/sanctions, which shall be consistent with the non-compliant issue, which could, if warranted, include termination for default or convenience. The contractor officer shall work with the DBELO and Administrator of Grants and Procurement, and other representatives as necessary. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of MTTA. This clause applies to both DBE and non-DBE subcontracts.

e. The contractor must promptly notify MTTA, 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 MTTA

## **11. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

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

## **12. SPECIAL NOTIFICATION REQUIREMENTS FOR STATES.**

To the extent required by Federal law, the State agrees that, in administering any Federal assistance Program or Project supported by the underlying Grant Agreement or Cooperative Agreement, any request for proposals, solicitation, grant application, form, notification, press release, or other publication involving the distribution of Federal assistance for the Program or the Project shall indicate that FTA is the Federal agency that is providing the Federal assistance, the Catalog of Federal Domestic Assistance Number of the program from which the Federal assistance is authorized, as applicable, and the amount provided