



TOPEKA METRO

Topeka Metropolitan Transit Authority
201 North Kansas Avenue
Topeka, KS 66603
(785) 233-2011

REQUEST FOR PROPOSALS
Technology for Buses

October 30, 2023

REQUEST FOR PROPOSALS

TECHNOLOGY FOR BUSES

RFP TM-24-01

October 30, 2023

Notify Richard Appelhanz via email of your interest in this solicitation.
rappelhanz@topekametro.org

All communication will be sent to known solicitation holders via email.

Metro will be unable to send you information, addenda, and other updates
if you do not notify us of your interest in this project.
Metro will not be responsible for communicating with firms
that do not notify us of their interest in this solicitation.

Topeka Metropolitan Transit Authority
201 N. Kansas Ave.
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www.topekametro.org

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PROPOSAL SCHEDULE

**TECHNOLOGY FOR BUSES
RFP TM-24-01
Topeka Metropolitan Transit Authority**

Monday, October 30, 2023 Public Notice and Request for Proposals

Friday, November 10, 2023 Last Day for Proposers to Request Changes and Ask Questions

Monday, November 20, 2023 Last Day for Metro to Respond to Requests and Questions

Thursday, November 30, 2023 Proposals are Due No Later than 3:00pm Central Time

PUBLIC NOTICE AND REQUEST FOR PROPOSALS

Topeka Metropolitan Transit Authority (Metro) will receive proposals from qualified firms to provide various types of technology for its fixed route buses. Proposals must be received in the Metro office at 201 N. Kansas Avenue, Topeka, KS 66603, in sealed envelopes marked “BUS TECHNOLOGY / RFP TM-24-01” no later than 3:00 PM Central Time on Thursday, November 30, 2023. The proposal schedule will allow for thirty-six (32) calendar days for proposal submission.

The RFP document package may be obtained from Metro’s office at 201 N. Kansas Avenue, Topeka, KS 66603, on or after Monday, October 30, 2023, by contacting Richard Appelhanz. Interested firms may download the RFP document package from Metro’s website (www.topekametro.org) or call (785) 730-8621 to arrange for pickup or mailing.

The proposers will be required to comply with all applicable state and federal Equal Employment Opportunity (EEO) laws and regulations. Metro, in accordance with Title VI of the Civil Rights Act of 1964 and related regulations, hereby notifies all proposers that minority business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, creed, color, religion, gender, marital status, sexual orientation, familial status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or military status in consideration for an award.

Any agreement resulting from this RFP is subject to financial assistance agreements between Metro and the Federal Transit Administration.

In order to be eligible to submit a proposal, the proposer must not be included on the United States Comptroller General's Consolidated List of Persons or Firms currently debarred or suspended from participating in public contracts.

Metro reserves the right to accept any proposal or any part or parts thereof. Metro reserves the right to reject any or all proposals and to waive irregularities therein, and all proposers must agree that such rejection shall be without liability on the part of Metro for any penalty brought by a proposer because of such rejections, nor shall the proposer seek any recourse of any kind against Metro because of such rejections, and the filing of any proposal in response to this solicitation shall constitute an agreement of the proposer to these conditions.

Topeka Metropolitan Transit Authority
201 North Kansas Avenue
Topeka, KS 66603

PART I – PROJECT DESCRIPTION

This document is a guide to properly preparing your proposal. All proposals must be completed in strict compliance with the requirements of this document. This RFP will become part of the final contract between Metro and the Contractor.

1.0 SCOPE

This procurement is for the purchase of various types of technology for fixed route buses for the Board of Directors of Topeka Metropolitan Transit Authority (Board). This will be a competitive procurement and will be awarded in accordance with the terms and conditions set forth in this document. Any agreement resulting from this RFP is subject to financial assistance agreement between Topeka Metropolitan Transit Authority (Metro) and the Federal Transit Administration (FTA). Proposers are advised to read all sections thoroughly before submitting a proposal.

2.0 SPECIFICATIONS

The Board invites qualified firms to submit a proposal to provide various types of technology for its fixed route bus system. Metro plans to purchase and install several interfacing types of technology.

Proposers shall have sufficient experience and qualifications to provide goods and services in accordance with the specifications contained in this Request for Proposals. The technology proposed must be reliable, easily maintained, of excellent quality, and easy to learn and use. Vendors will include in their proposals all equipment, installation and training needed to complete the project.

Metro plans to install new equipment and upgrade existing equipment for its fixed route bus system. There are currently 26 buses in the fixed route system. The required elements apply to all 26 fixed route buses. Metro will be adding and removing buses from the fixed route fleet in the future and the technology will need to be added to any buses added to the fleet. The successful contractor will install items selected by Metro from the following list:

- AVL/CAD – automated vehicle location and computer aided dispatch
- Provide a customer facing app for bus location, arrival time, and trip planning services
- Provide passenger customer service support
- APC – automated passenger counters
- DMS – real-time dynamic message signs – integration with existing signs and/or replacement signs

Metro currently has various types of equipment on some or all of the buses. Vendors may:

- 1) integrate current equipment into the new system;
- 2) upgrade current equipment to work in the new system;
- 3) replace current equipment; or,
- 4) a combination of some or all of the above.

Please refer to the appendices. Appendix 1 lists Metro's current equipment, bus types and sizes, and other pertinent information. Appendix 2 lists the required functionality, preferred functionality and quantities.

3.0 METRO OVERVIEW

Since its beginning in July 1973, Topeka Metropolitan Transit Authority (Metro) has operated transit service as an independent public entity under the authority of Kansas statutes and Topeka ordinances. Metro has the state statutory authority to operate in the City of Topeka, Kansas and within ninety miles of the City limits. The primary function of Metro is to plan, develop, finance, and operate transit buses, equipment and facilities serving the City of Topeka and surrounding area.

Metro provides fixed route bus service Monday through Saturday during daytime hours, and ADA paratransit (lift) service during fixed route bus service hours. Metro currently operates twelve fixed routes, all within the City limits.

Metro receives the following types of funding:

- U.S. Department of Transportation, Federal Transit Administration, operating and capital grants
- Kansas Department of Transportation, operating and capital grants
- City of Topeka, property tax funding for operating and capital expenses
- Metropolitan Topeka Planning Organization, City of Topeka, planning grants

The above-mentioned funding constitutes approximately 90% of Metro's annual revenues. The majority of the other 10% is generated through bus fares and investment income.

Metro's fiscal year is July 1 through June 30. Total annual budgeted expenses are approximately \$11 million. Metro currently has 74 employees.

4.0 CONTRACTOR'S GENERAL REQUIREMENTS

The contractor will:

- 1) Follow all of the contractual requirements in Part IV;
- 2) Acquire any and all necessary licenses, certifications and permits, and pay fees for same;
- 3) Hire all subcontractors and ensure their compliance with contractual requirements;
- 4) Furnish all labor, material and equipment necessary for satisfactory contract performance;
- 5) Receive Metro approval of router and cell provider for WiFi on the buses;
- 6) Schedule equipment installation with the Director of Maintenance;
- 7) Ensure that completed work is fully functional and ready for use;
- 8) Provide on-site training in all aspects of the system; and,
- 9) Provide at a minimum a three-year warranty from the date of Satisfactory Completion.

5.0 CONTRACT QUANTITIES AND TERM

This will be a five-year contract. Note the estimated start and completion dates for the equipment installation and training on the price quote form. Also note the annual cost of maintenance, support and updates (if applicable) for the 5-year term. Proposers will provide a price quote for each item on the price quote form – Metro will select items based on the amount of money available for this project.

6.0 OMISSION OF SPECIFICATIONS

No advantage shall be taken by Contractor or any sub-contractor in the omission of specifications on the part of Metro of any part or detail which goes into fulfilling the terms of this RFP.

PART II – INSTRUCTIONS TO PROPOSERS

This RFP represents, in writing to all proposers, the most comprehensive and definitive statement that Metro is able to make at this time as to the requirements, terms, and conditions for this solicitation. The proposal package is the proposer's opportunity to demonstrate how it will best meet the needs of Metro, both in the service provided and the cost to provide the service. A well organized, complete, and compliant proposal package will improve the contractor's chances of receiving an award for this project.

Any information or understandings, verbal or written, which are not contained either in the RFP or in subsequent written addenda to the RFP, will not be considered in evaluating the proposals.

1.0 DISCLOSURE OF PROPOSALS

Proposals and other materials submitted by proposers which may become part of a contract with Metro may be subject to state and federal open records laws. Metro may deny public access to such records or applicable portions thereof that are trade secrets or are maintained for the regulation of commercial enterprise which, if disclosed, would cause substantial injury to the competitive position of the subject enterprise, are specifically exempted from disclosure by state or federal statute, or are otherwise exempted from disclosure. Proposers shall mark as confidential only those portions of their proposals that they believe are not required to be disclosed under open records laws. Metro, however, is obligated to disclose information consistent with the requirements of said laws, notwithstanding any such designations made by proposers.

For proposals and other submitted materials that are subject to the Kansas Open Records Act, Metro may deny public access to (1) specifications for competitive bidding until the specifications are officially approved, and (2) sealed bids and related documents until a bid is accepted or all bids rejected.

2.0 SUBMISSION OF PROPOSALS

One hard copy marked "Original" and four (4) additional printed copies of the proposal are to be submitted in a sealed box or envelope with the name and address of the proposer clearly visible. All printed copies are to be submitted in the order given in Part II, Section 8.0. Also submit one electronic copy of your proposal on CD, stick drive, or via email to the individual(s) listed in Part II, Section 4.0.

The proposal should be comprehensive, accurate, and effective without unnecessary bindings or other decorative or extraneous materials. The proposal box or envelope is to be addressed as noted in Part II Section 3.0, clearly showing the proposer's address, and labeled, "BUS TECHNOLOGY/ RFP TM-24-01."

3.0 PROPOSAL DELIVERY AND DUE DATE

All proposals must be received by Metro no later than the due date and time listed in the Proposal Schedule on page 5. It is the responsibility of each proposer to ascertain that its proposal is received by Metro by the specified deadline. Proposals received after that date and time will not be considered.

The proposal envelope must be delivered by the appropriate date and time to:

Topeka Metropolitan Transit Authority
Attn: Richard Appelhanz
201 N. Kansas Avenue
Topeka, KS 66603

4.0 CONTACT PERSONS / RFP QUESTIONS

Richard Appelhanz
rappelhanz@topekametro.org
785-730-8621

Topeka Metropolitan Transit Authority
201 N. Kansas Avenue
Topeka, KS 66603

Questions and Change Requests must be directed to the individual(s) listed above. The RFP number must appear on the envelope or email. Any new information to be issued by Metro, replies to questions, and addenda or amendments to the RFP will be provided in writing to all known solicitation holders. All questions and change requests received will be answered only in writing; both the question and the answer will be shared with all known solicitation holders and posted to Metro's website.

Any questions, requests for clarification, change requests or any other communication concerning this RFP, either verbal or written, must be addressed to the individual(s) above. Any communication by proposers with other Metro employees, or with Metro officers, agents, board members, or any other individual directly associated with Metro, may result in the immediate disqualification of the proposer from consideration for the award of this contract.

Topeka Metro reserves the right to accept or deny any change requested to the requirements, specifications and material aspects of the solicitation. All responses to requested changes will be posted to Metro's website and distributed to all known proposers. Questions, Requests for Clarification or Interpretation, and Change Requests may be submitted until the date listed in the Proposal Schedule on page 5.

5.0 PRE-PROPOSAL CONFERENCE

Metro will not hold a pre-proposal conference.

6.0 PROPOSAL PREPARATION COSTS

No payment will be provided by Metro for any of the information provided by proposers in response to this solicitation. Proposers are responsible for the entire cost of responding to this RFP, including but not limited to: preparation of proposal, pre-proposal conference, mailing of proposal, expenses pertaining to interviews and contract negotiations, and any and all legal costs incurred by the proposer.

7.0 PROPOSAL POSTPONEMENT AND AMENDMENT

Metro reserves the right to revise or amend any portion of this RFP prior to the date and time for the proposal delivery. Such revisions and amendments, if any, shall be issued through addenda to this RFP. Copies of such addenda or amendments will be furnished to known proposers' last known email address, and posted to Metro's website. If the revisions or addenda require changes in requested information or the format for proposal submission, the established date for submission of proposals contained in this RFP may be postponed by such number of days that, in the opinion of Metro, will enable proposers adequate time to revise their proposals. In any case, a revised proposal submission date will be at least five (5) days after the last addendum issued, and the addendum will include an announcement of the new date, if applicable, for submission of the revised proposals. Addenda or amendments to the RFP, after receipt of the proposals, will

be offered only to those proposers who qualify by having submitted proposals by the date and time required for proposal submittal.

8.0 REQUIRED PROPOSAL CONTENT AND FORMAT

The submitted proposal must include the required contents and follow the format outlined below. There is no page limitation in document size, but any information submitted by the Proposer is expected to be concise and relevant to the RFP and Project. Proposals that do not follow the listed format, or fail to include the required material, may be removed from consideration. Each copy of the Proposal must be complete. Information not requested, but which may enhance Metro's understanding of the proposal, may be attached as supplemental information. Unauthorized conditions, limitations or provisions attached to a proposal may cause its rejection. Include subcontractor information where relevant. If you will be using a DBE subcontractor, include a copy of the subcontractor's current state DBE certificate.

8.1 Cover Letter

The Cover Letter shall be brief, signed by a person who is authorized to commit the Contractor to perform the Scope as listed in Part I Section 1.0. It shall be written on firm letterhead and contain the firm name, address, telephone number, email address and name of the main contact person.

8.2 Understanding of the Scope and Specifications

Provide a description of your understanding of, and ability to fulfill, the scope and specifications listed in Part I.

8.3 Experience and Qualifications of the Firm

Provide a description of your firm's experience and qualifications, including how long your firm has been in this type of business. Supply at least three references, businesses for which you have performed the same type of service recently. Contact information for all references must be up to date. Submit material which demonstrates that your firm has experience in this type of project, and has sufficient personnel with the requisite licenses, disciplines, skills, experience and equipment to complete the contract in a satisfactory manner.

8.4 Price

Complete the Price Quote form in Part V. All fields must be completed on the price list. If any of the fields are not applicable, or if an item is not available, put "n/a" in that field.

8.5 Equipment and Warranty

Describe concisely how your product meets or exceeds the specifications in Part I Section 2. Do not include sales brochures. Provide manufacturer warranty information.

8.6 Subcontractors and DBE Participation

Provide a list of possible subcontractors, including their function and DBE status. Describe how you will make efforts to invite DBE participation. A directory of Kansas DBEs may be found at www.ksdot.org/divadmin/civilrights.

8.7 Attachments

Provide fully executed copies of all relevant forms and certifications in Part V. Missing or improperly executed forms will reduce your evaluation scoring, and may invalidate your proposal.

9.0 OTHER COMMENTS AND INSTRUCTIONS

9.1 Right of Selection/Rejection

Metro reserves the right to:

- 9.1.1 Reject any and all proposals. Proposers who submit proposals that do not follow the instructions, or do not provide the information requested within this RFP, may be subject to immediate rejection;
- 9.1.2 Reject any or all proposals not in compliance with all public and/or Metro procedures and requirements;
- 9.1.3 Select proposal(s) which appear to be in the best interest of Metro;
- 9.1.4 Waive any or all irregularities in proposals submitted;
- 9.1.5 Award any or all parts of any proposal; and
- 9.1.6 Not award or postpone awards of contracts to any selected firms during the contract term.

10.0 LIMITED PROPOSAL RESPONSE

If fewer than three (3) proposals are received in response to this RFP, Metro will conduct a Cost Analysis of the proposal(s) in order to ensure that each proposal is responsive, that the proposer is responsible, and that the price quoted is fair and reasonable. In this event, Metro will require the full cooperation of the proposer(s) in order to make a determination and complete its Analysis.

11.0 PROPOSAL MISTAKES OR WITHDRAWAL

A proposer who seeks to rescind his/her proposal or correct an error in his/her proposal may do so no later than two business days prior to proposal opening. After the proposals are opened, they may not be withdrawn for at least ninety (90) calendar days. Prior to the date and time set for the proposal opening, however, proposals may be modified or withdrawn by the Proposer's authorized representative in writing. The written notification is to be an original document, on Firm letterhead, and signed by an authorized representative of the Firm.

12.0 ADDENDA AND REQUESTS FOR CLARIFICATION

Requests for interpretations or clarifications shall be made by the date shown on the Proposal Schedule on page 5. All responses will be posted to Metro's website and provided to all known document holders via email by the date shown on the Proposal Schedule. Metro reserves the right to issue Addenda to the RFP at any time during this procurement process.

In order to establish a basis of quality and performance, certain requirements and qualifications may be specified in the RFP. It is not the intent of Metro to exclude other requirements or qualifications of equal value, utility or merit. Proposers may review all proposal requirements and seek exceptions or clarifications to requirements established in this document as outlined below.

It is the proposer's responsibility to ask questions, request changes or clarifications, or otherwise advise Metro if any language, specifications or requirements in the RFP appear ambiguous, contradictory, or

arbitrary, or appear to inadvertently restrict or limit open competition. Metro reserves the right to make a determination, correction, or clarification whenever an inconsistency or discrepancy is found.

Proposers may discuss this RFP and any Addenda with the individual(s) listed in Part II Section 4.0; however, such discussions will not be construed as a formal or official response or statement, nor do they relieve the proposers from responsibility for submitting written requests for exceptions or clarifications.

Metro shall make a written determination on each request. Metro will use its best efforts to disseminate addenda; however, this shall not relieve proposers of the responsibility for determining if addenda have been issued. All addenda to this RFP will be posted on the Metro website and sent via email to all known solicitation holders.

13.0 RESPONSIVE PROPOSALS / PROPOSER'S QUALIFICATIONS

In order to qualify as a responsible proposer, in addition to the other requirements herein provided, a proposer must be prepared to prove to the satisfaction of Metro that it has the integrity, skill, and experience to faithfully perform the conditions of the Agreement and that it has the necessary facilities and financial resources to provide goods or services in accordance with the conditions outlined herein. The proposer is expected to refrain from knowingly undertaking collaboration or representation that will create a conflict with Metro, and to inform the Board and/or the General Manager promptly of any conflict that develops or they become aware of during the course of the contract with Metro. The proposer agrees to provide Metro additional information, or to clarify or supplement information already furnished, including, but not limited to information relating to its past performance, its plan for performing the requirements of the Agreement, investigations, indictments, convictions, the proposer's safety practices, and record and financial conditions. The proposer agrees to permit Metro to conduct site visits. To be considered skilled and experienced, the proposer must show, among other requirements of Metro, that it has satisfactorily supplied goods or services of the same general type and scope as that called for in the RFP. The proposer shall also be required to secure any necessary insurance policies or necessary licenses, permits, or certificates required by any legislative or regulatory body with jurisdiction of the subject matter and may be required to furnish evidence of same.

PART III – PROPOSAL EVALUATION AND SELECTION PROCESS

1.0 EVALUATION AND SELECTION / AWARD PROCESS

Evaluations will be conducted by an Evaluation Committee formed by and including Metro’s Procurement Officer. Proposers shall provide complete and concise contact information, including the name of the interested firm, the name of the authorized company representative, the appropriate mailing address, telephone number, fax number, e-mail address, and any other pertinent contact information.

Metro will make the award to the proposer who has demonstrated that it can most effectively satisfy the interests of Metro. The successful proposer shall possess the ability to perform successfully under the terms and conditions of a proposed agreement. This RFP represents, in writing to all proposers, the most comprehensive and definitive statement that Metro is able to make at this time as to the requirements, terms, and conditions for this proposal process and performance of contract services. Any information or understandings, verbal or written, which are not contained either in the RFP, or in subsequent written addenda to the RFP, will not be considered in evaluating proposals. In order to be eligible for an award of a contract and notwithstanding its relative qualifications for purposes of the evaluation criteria and in other respects, the proposer must demonstrate to Metro’s satisfaction that it is in all respects a responsible party, i.e., that it has the integrity, skill, and experience to faithfully perform the Agreement and the necessary facilities and financial resources to provide goods or perform the services in accordance with the Agreement documents, and be otherwise qualified and eligible to receive an award under applicable laws and regulations. Metro is seeking the highest quality, most professional services available.

The Selection Committee will evaluate proposals based on the evaluation criteria listed in Part III, Section 2.0. Each committee member will review and evaluate proposals individually; the committee will then meet to discuss the proposals, total the evaluation scoring, and prepare a recommendation of award for the Board. The Board will make the final decision and award the contract.

Proposals will be considered responsive based on compliance with the instructions and requirements of the RFP. Proposals that do not comply, or do not include all of the required information, may be deemed unresponsive and ineligible for consideration.

2.0 REVIEW OF PROPOSALS

The Selection Committee will individually evaluate and rank all proposals based on pre-established evaluation criteria. Each member of the committee will evaluate and rank all relevant criteria, and then total the scores for each proposer. The scores of all members will next be added together for each proposer.

Following are the evaluation criteria, listed by degree of importance. A criterion may have multiple elements with varying degrees of importance.

- Proposer’s Experience and Qualifications
- Installation, Training and Ease of Use
- Quality of Equipment
- Price

Metro reserves the right to consider relevant information and facts, whether gained from a proposal, from the proposer, from proposer’s references, or from any other source.

3.0 CLARIFICATION OF PROPOSALS

Metro reserves the right to obtain clarification of any point in a firm's proposal or to obtain additional information necessary to properly evaluate a particular proposal. Failure of a firm to respond to such a request for additional information or clarification may result in rejection of the firm's proposal.

4.0 CONTRACT AWARD

The contract will be awarded to the proposer whose proposal is the most advantageous to Metro. When the Selection Committee has decided upon a recommendation, its decision will be submitted to the Board for consideration; the Board will make the final decision for the award.

Metro plans to award the contract within ninety (90) days of the deadline for submission of proposals. Reasons for a delay in the award of the contract include, but are not necessarily limited to, the following:

- a. protests have been received,
- b. only one proposal was received,
- c. an issue requiring FTA response is pending,
- d. the award is made to a proposer who fails to enter into a contract.

If the award is delayed, proposals will remain valid for an additional sixty (60) days to afford Metro a reasonable opportunity to award the contract. No proposer may withdraw their proposal during that time.

If the proposer to whom the award is made fails to enter into a contract with Metro, the award will be cancelled. In that event, Metro reserves the right to make an award to the next most acceptable proposer, to re-enter negotiations with remaining proposers, or to cancel and reissue the RFP.

PART IV – GENERAL INFORMATION AND REQUIREMENTS

1.0 ACCESS TO RECORDS

The Contractor agrees to provide Metro, 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 CFR 633.15 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 USC 5302 and 49 CFR 633.5, which is receiving federal financial assistance through the programs described at 49 USC 5307, 5309 or 5311. 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 Metro, 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 2 CFR 200.333 and 2 CFR 200.336. FTA does not require the inclusion of these requirements in subcontracts.

2.0 ASSIGNMENT AND DELEGATION

Contractor shall neither delegate any duties or obligations under this contract, nor assign, transfer, convey, sublet, subcontract or otherwise dispose of the contract or its right, duty, title or interest in or to the same, or any part thereof, without previous written consent of Metro.

3.0 BREACHES AND DISPUTE RESOLUTION

- 3.1 Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of Metro's Contract Administrator. This decision shall be final and conclusive unless within ten (10) calendar days from the date of receipt of its copy, the contractor submits a written appeal to the Contract Administrator. In connection with any such appeal, the contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Contract Administrator shall be binding upon the contractor, and the contractor shall abide by the decision.
- 3.2 Unless otherwise directed by Metro, the contractor shall continue performance under this contract while matters in dispute are being resolved.
- 3.3 Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of party's employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party as soon as practicable after the injury or damage is first known or ascertainable, and in no event later than fifteen (15) calendar days thereafter.
- 3.4 Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between Metro and the contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in the district court of Shawnee County, Kansas.
- 3.5 The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by Metro or the contractor shall constitute a waiver of any right or duty afforded any of them under this contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

4.0 BUY AMERICA

The Contractor agrees to comply with 49 USC 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7. Separate requirements for rolling stock are set out at 49 USC 5323(j)(2)(c) and 49 CFR 611.11. Rolling stock must be assembled in the United States and have over 60% domestic content for deliveries prior to FY2018, over 65% for deliveries in FY2018 and FY2019, and over 70% for deliveries in FY2020 and thereafter. A bidder or offeror must submit to Metro the appropriate Buy America certification with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier sub-contractors.

5.0 CARGO PREFERENCE

The contractor agrees: (1) to use privately owned US-Flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the contract to the extent such vessels are available at fair and reasonable rates for US-Flag commercial vessels; (2) to furnish within 20 working days following the date of loading for shipments originating within the U.S. or within 30 working days following the date of loading for shipments originating outside the U.S., a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described above to:

Division of National Cargo
Office of Market Development
Maritime Administration
Washington, DC 20590

with a copy to Metro (through the contractor in the case of a subcontractor's bill-of-lading); and, (3) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

6.0 CIVIL RIGHTS

- 6.1 Nondiscrimination – In accordance with Title VI of the Civil Rights Act, as amended, 42 USC 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 USC 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 USC 12132, and Federal transit law at 49 USC 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.
- 6.2 Equal Employment Opportunity – The following equal employment opportunity requirements apply to the underlying contract:
- 6.2.1 Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 USC 2000e, and Federal transit law at 49 USC 5332, the contractor agrees to comply with all applicable equal employment opportunity requirements of US Department of Labor (USDOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect 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.
- 6.2.2 Age – In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 USC 623 and Federal transit law at 49 USC 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.
- 6.2.3 Disabilities – In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 USC 12112, the Contractor agrees that it will comply with the requirements of the US Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the contractor agrees to comply with any implementing requirements FTA may issue.
- 6.3 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.
- 6.4 If the contract involves federal funds, the provisions of this subsection do not apply. If the contract does not involve federal funds, and if contractor's contracts with Topeka Metro for the current fiscal year cumulatively total more than \$5,000 and the contractor has four or more employees during the term of this contract, the contractor also agrees to observe the provisions of the Kansas Act Against Discrimination and the Kansas Age Discrimination in Employment Act and shall not discriminate against any person in the performance of work under this contract because of race, religion, color, sex, disability, national origin or ancestry. In all solicitations or advertisements for employees, the contractor shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by Topeka Metro. If the contractor fails to comply with the reporting or other requirements of the Kansas Human Rights Commission under K.S.A. 44-1031 or K.S.A. 44-1116, and amendments thereto, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended, in whole or in part, by Topeka Metro. If contractor is found guilty of a violation of the Kansas Act Against Discrimination or the Kansas Age Discrimination in Employment Act under a decision or order of the Kansas Human Rights Commission which has become final, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in

whole or in part, by Topeka Metro. Contractor agrees to include the binding provisions of this subsection in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

7.0 CLEAN AIR AND WATER

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC 7401 et seq., and the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor agrees to report each violation to Metro and understands and agrees that Metro will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

8.0 COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS

Contractor shall at all times be solely responsible for complying with all applicable local, state and federal laws, ordinances and regulations in connection with the performance of this contract.

9.0 CONFIDENTIALITY

Between the date and time that proposals are due, until award of the contract by Metro, no information will be released which may have an adverse impact upon the negotiations or selection process. No information will be shared about the distinguishing characteristics or deficient characteristics of any proposal. All documents received by Metro are subject to the Kansas Open Records Act, KSA 45-215, et seq., and the Freedom of Information Act, 5 USC 552.

10.0 CONFLICT OF INTEREST

No director or employee of Topeka Metropolitan Transit Authority, during his/her tenure or within one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof.

11.0 CONTRACT CHANGES

Any proposed change to this contract shall be submitted to Metro in writing for approval. No change in this contract shall be made unless Metro gives prior written approval. Contractor shall be liable for all costs, damages and/or liabilities, and for proper corrections, resulting from any specification change not properly approved in writing by Metro. Changes that have not been approved by Metro shall place Contractor in default of the contract.

12.0 DISADVANTAGED BUSINESS ENTERPRISE (DBE)

- 12.1 This contract is subject to the requirements of 49 CFR 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%. Metro's overall 2022-2024 goal for DBE participation is 1.62%; the race neutral goal is 0.37%, and the race conscious goal is 1.25%. There is no contract goal for this procurement.
- 12.2 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 Metro deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- 12.3 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 Metro.
- 12.4 The contractor may not hold retainage from its subcontractors.
- 12.5 The contractor must promptly notify Metro, 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 Metro.

13.0 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.

14.0 EXCLUSIONARY OR DISCRIMINATORY SPECIFICATIONS

Metro will comply with the requirements of 49 USC 5323(h)(2) by refraining from using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

15.0 FEDERAL CHANGES

The 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 Metro 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.

16.0 FLY AMERICA

The contractor agrees to comply with 49 USC 40118 (the Fly America Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. flag air carriers for U.S. government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. 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.

17.0 INCORPORATION OF FTA TERMS

These contract provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the included contract provisions. All contractual provisions required by USDOT, as set forth in the current version of FTA Circular C 4220.1, 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 Metro requests which would cause Metro to be in violation of the FTA terms and conditions.

18.0 INDEMNIFICATION

Contractor shall be responsible for and indemnify, defend and hold harmless Metro, its directors and employees from all demands, claims, suits and settlements for loss of or damages to property, or personal injuries, including death to persons, and from all judgments recovered, and from all expenses incurred in defending or settling said claims or suits, or enforcing this provision, including court costs and attorney fees and other expenses arising out of the errors, omissions or negligent acts of the Contractor, its employees, or agents in connection with the goods and/or services provided under this contract.

19.0 INSURANCE

Contractor shall maintain for the duration of the contract such insurance as will protect it and Metro from all claims, including Workers' Compensation, and will hold Metro harmless from, and indemnify Metro for, all claims and damages which may arise out of or result from the Contractor's operations under this contract, whether such operations are by Contractor, by a subcontractor, by anyone directly or indirectly employed by them, or by anyone for whose acts any of them may be liable. Contractor will submit certificates or other proof of insurance to Metro, naming Metro as an additional insured, upon notification of contract award.

20.0 INTEREST OF CONGRESS

No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this contract or to any benefit arising therefrom.

21.0 LEGAL MATTER NOTIFICATION

Contractor agrees to notify Metro if a current or prospective legal matter emerges while this contract is in effect that may affect the Federal Government. Contractor also agrees to include this requirement in all subcontracts issued pursuant to this contract.

22.0 LOBBYING

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR 20.110, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier, up to Metro.

23.0 NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

Metro and the contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this 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 Metro, the contractor, or any other party (whether or not a party to this contract) pertaining to any matter resulting from this contract. The contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that this clause shall not be modified, except to identify the subcontractor who will be subject to its provision.

24.0 PATENT INFRINGEMENT

Contractor agrees that it will, at its own expense, defend all suits and all proceedings instituted against Metro, if such suits and proceedings are based on any claim that the materials or equipment provided by Contractor, or any part thereof, or any tool, article or process used in the manufacture thereof, constitutes an infringement of any patent. Metro will give Contractor prompt notice in writing of any suit or proceeding, and will give Contractor all needed information, assistance and authority to enable Contractor, through its legal counsel, to defend the same.

25.0 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS

- 25.1 The contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801, et seq. and US DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this project. Upon execution of this 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 this 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.
- 25.2 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 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307 on the contractor, to the extent the Federal Government deems appropriate.
- 25.3 The contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

26.0 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES EQUIPMENT (NOV 2021)

- (a) Definitions. As used in this clause - Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet). Covered foreign country means The People's Republic of China. Covered telecommunications equipment or services means - (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (2) 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); (3) Telecommunications or video surveillance services provided by such entities or using such equipment; or (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of

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. Critical technology means - (1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations; (2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled - (i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or (ii) For reasons relating to regional stability or surreptitious listening; (3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities); (4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material); (5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or (6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817). Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources. Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit. Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high. Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service. (b) Prohibition. (1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service 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. The Contractor is prohibited from providing to the Government any equipment, system, or service 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, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. (2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service 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, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. (c) Exceptions. This clause does not prohibit contractors from providing - (1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles. (d) Reporting requirement. (1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>. (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause: (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended. (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services. (e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial products or commercial services.

27.0 PROTEST PROCEDURE

All protests in the procurement cycle must contain the following information: (1) Name of Protestor; (2) RFP Number; (3) Statement of grounds for protest; and, (4) All supporting documentation. All protest documents shall be sent to:

Topeka Metropolitan Transit Authority
Attn: Procurement Officer
201 North Kansas Avenue
Topeka, KS 66603

The words "Protest / Open Immediately" must appear on the outside of the mailing envelope.

Pre-award protests filed in conjunction with the schedule or RFP documents must be filed in writing no less than five (5) days prior to the final submission date of proposals. Post-award protests must be filed within five (5) days of the notice of award.

Protests will be reviewed by the Procurement Officer, who will make a determination. This determination will be sent to all known proposers by certified mail within five (5) days of the receipt of the protest. The FTA will be notified of any protest received pertaining to this project.

If the protester wishes to appeal the determination of the Procurement Officer, an appeal must be filed in writing to the Metro Board of Directors, at the address listed above, within five (5) days of the determination. The words "Protest / Open Immediately" must appear on the outside of the mailing envelope. The Board of Directors will make a decision on the appeal at its next regularly scheduled meeting following receipt of the appeal. The decision of the Board of Directors is final.

The FTA will entertain an appeal of the Board's final decision only under one of the following four conditions: (1) Metro did not follow its protest procedure; (2) Metro failed to review the protest; (3) data becomes available that was not previously known; or, (4) there was an error of law.

28.0 RECYCLED PRODUCTS

The contractor agrees to comply with all of the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 USC 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

29.0 SEAT BELT USE

In accordance with the provisions of Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 USC 402 note, by adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned or rented vehicles or personally owned vehicles, and by including a "Seat Belt Use" provision in each third-party agreement related to the project.

30.0 SUSPENSION AND DEBARMENT

In accordance with 2 CFR Parts 180 and 1200, the contractor is required to verify that none of its principals or affiliates: 1) is included on the federal government's suspended and debarred list; 2) is proposed for debarment, declared ineligible, voluntarily excluded or disqualified; 3) within three years preceding this proposal, has not been convicted of or had a civil judgment rendered against them for (a) commission of fraud or criminal offense pertaining to performing a public transaction, (b) violation of any federal or state antitrust statute, or (c) embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; 4) is indicted or charged by a governmental entity for any of the charges in 3) above; and 5) has had any public transaction terminated for cause or default within three years preceding this proposal. The contractor is required to include this requirement in any subcontracts related to this contract. By signing and submitting its proposal, the proposer certifies that the certification in this clause is a material representation of fact relied upon by Metro. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to Metro, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The proposer agrees to verify that none of its principals or affiliates is included on the federal government's suspended and debarred list at any time throughout the period of this contract. The proposer further agrees to include a provision requiring the same compliance in its subcontracts related to this contract.

31.0 TERMINATION

Termination for Convenience – Metro may terminate this contract, in whole or in part, at any time by written notice to the contractor when it is in the Metro'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 Metro to be paid to the

contractor. If the contractor has any property in its possession belonging to Metro, the contractor will account for the same, and dispose of it in the manner Metro directs.

Termination for Default – 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, Metro may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the contractor setting forth the manner in which the contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by Metro 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, Metro, 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.

Opportunity to Cure – Metro in its sole discretion may, in the case of a termination for breach or default, allow the contractor ten (10) days 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 Metro’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 Metro setting forth the nature of said breach or default, Metro shall have the right to terminate the contract without any further obligation to the contractor. Any such termination for default shall not in any way operate to preclude Metro from also pursuing all available remedies against contractor and its sureties for said breach or default.

Waiver of Remedies for Any Breach – In the event that Metro elects to waive its remedies for any breach by contractor of any covenant, term or condition of this contract, such waiver by Metro shall not limit Metro’s remedies for any succeeding breach of that or of any other term, covenant, or condition of this contract.

Termination for Default (supplies and service contracts only) – 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, Metro may terminate this contract for default. Metro 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 of 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 Metro.

PART V – ATTACHMENTS

The forms provided in this section should be completed and included in the proposal package.

PLEASE NOTE: Return only one Acknowledgement – there are separate acknowledgement forms for sole proprietorship/partnership and corporations.

The information included in all of the following forms is required. If you include your own version of a form, please ensure that all required information is incorporated. The Evaluation Committee will consider any missing or incomplete forms as not responsive, which may result in your proposal being withdrawn from consideration.

Acknowledgement (Individual/Partnership)
Acknowledgement (Corporation)
Acknowledgement of Addenda
Buy America Certification
DBE Certification
Fly America Certification
Lobbying Certification
Non-Collusion Certification
Power of Execution
Price Quote
Proposal Change Request
Suspension/Debarment Certification

ACKNOWLEDGEMENT

Individual / Partnership

STATE OF)
)
COUNTY OF)
)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, who is/are personally known to me, appeared before me this day in person, and acknowledged the signature, seal and delivery of the foregoing instrument as a free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notary seal, this _____ day of _____, 20____.

My Commission Expires:

Notary Public

(SEAL)

ACKNOWLEDGEMENT
Corporation

STATE OF)
)
COUNTY OF)
)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, and _____, of _____, (a corporation)

who are each personally known to me, appeared before me this day in person and severally acknowledged that they signed, sealed and delivered the foregoing instrument as their free and voluntary act as officers of the corporation identified above as the Proposer, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and notary seal, this _____ day of _____, 20____.

My Commission Expires:

Notary Public

(SEAL)

ACKNOWLEDGEMENT OF ADDENDA

The following form shall be completed and included in the proposal. Failure to acknowledge receipt of all addenda may cause the proposal to be considered unresponsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the Proposal. Make copies of this form if more than five (5) addenda were issued.

ACKNOWLEDGEMENT OF ADDENDA

The undersigned acknowledges receipt of the following addenda to RFP TM-24-01:

Addendum Number _____ Dated: _____

Addendum Number _____ Dated: _____

Addendum Number _____ Dated: _____

Addendum Number _____ Dated: _____

Addendum Number _____ Dated: _____

Proposer _____

Street Address _____

Street Address _____

City, State, Zip Code _____

Authorized Signature _____

Name _____

Title _____

Telephone Number _____

Facsimile Number (FAX) _____

E-Mail Address _____

BUY AMERICA CERTIFICATION

Proposer will certify either compliance or non-compliance, not both. This certification must be submitted with the proposer's response.

Certificate of Compliance with 49 USC 5323(j)

The bidder hereby certifies that it will meet the requirements of 49 USC 5323(j), and the applicable regulations in 49 CFR Part 661 and any amendments thereto.

Signature: _____

Name & Title: _____

Company: _____

Date: _____

Certificate of Non-Compliance with 49 USC 5323(j)

The bidder hereby certifies that it cannot comply with the requirements of 49 USC 5323(j) and 49 CFR 661.5, but it may qualify for an exception pursuant to 49 USC 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 CFR 661.7.

Signature: _____

Name & Title: _____

Company: _____

Date: _____

DISADVANTAGED BUSINESS ENTERPRISES (DBE) CERTIFICATION

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%. Metro’s overall 2022-2024 goal for DBE participation is 1.62%; the race neutral goal is 1.25%, and the race conscious goal is 0.37%. There is no contract goal for this procurement.

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 Metro deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

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 Metro.

The contractor may not hold retainage from its subcontractors.

The contractor must promptly notify Metro, 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 Metro.

Signature: _____

Name and Title: _____

Company Name: _____

Date: _____

FLY AMERICA CERTIFICATION

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.

Signature: _____

Name and Title: _____

Company Name: _____

Date: _____

LOBBYING CERTIFICATION

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. See 49 CFR 20.100.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. [Note: Pursuant to 31 USC 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure. See 49 CFR 20.400.]

The undersigned contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 USC 3801, et seq, apply to this certification and disclosure, if any.

Signature: _____

Name and Title: _____

Company Name: _____

Date: _____

NON-COLLUSION CERTIFICATION

This is my sworn statement to certify that this proposal was not made in the interest of or on behalf of any undisclosed entity. This proposal is not collusive.

This proposer has not been a party to any agreement or collusion in restraint of freedom of competition by agreement to bid a fixed price, to refrain from bidding, or otherwise. This proposer has not, directly or indirectly, by agreement, communication or conference with anyone, attempted to induce action prejudicial to the interest of Topeka Metropolitan Transit Authority, or of any proposer, or anyone else interested in the proposed contract.

Signature: _____

Name and Title: _____

Company Name: _____

Date: _____

POWER OF EXECUTION

Authorization of Bidder

The undersigned, an _____ of
(officer, partner, proprietor, etc.)

_____,
(name of company)

a _____
(corporation, partnership, proprietorship)

having its principal office or registered agent at _____,
hereby certifies that the Company has duly authorized by appropriate action and/or hereby does

nominate, constitute, appoint and authorize _____
(name of individual signing document)

with full power to act _____, on behalf of
(alone or in conjunction with another person)

_____,
(name of company)

and thereby to make, execute, seal and deliver on its behalf as CONTRACTOR and as its act and deed any and all proposals, contract proposals, contracts, change orders, monthly and final payment certificates and other like instruments. Such proposals, contract proposals, contracts, change orders, monthly and final payment certificates and other like instruments shall be binding upon said company as fully and to all intents and purposes as if such instruments had been duly executed, acknowledged and delivered by the authorized officers of the company when executed, by the aforementioned person(s).

Company

Signature, Title

Date

ATTEST:

Notary Public (if proprietorship)
Secretary of Corporation (if corporation)
Partner (if Partnership)

PRICE QUOTE

Proposer _____

RFP Number – TM-24-01 Technology for Buses

Please provide a price quote for each of the items listed below. Metro will select items based on the amount of money available for this project.

AVL/CAD *	\$	_____
APC	\$	_____
DMS	\$	_____
Total Contract Price	\$	_____

Installation & Training Start Date _____ Complete Date _____

Annual Maintenance, Support and Updates	Year 1 \$	_____
Note: You may quote dollar amounts for years 2-5, or maximum percentage increases. If there is no cost, enter \$0 on each line.	Year 2 \$	_____
	Year 3 \$	_____
	Year 4 \$	_____
	Year 5 \$	_____

What would Topeka Metro need to provide in order for you to complete this project?

Metro is exempt from all taxes – do not include sales tax in your bid pricing. A project exemption certificate will be provided upon request. Price quoted must be the total cost of the contract, including (but not limited to) materials, labor, installation, training and travel expenses.

*** Includes headsign update, annunciator update, customer facing app, and customer service support.**

PROPOSAL CHANGE REQUEST

Complete this form for each condition, exception, reservation, or understanding (i.e., change) in the proposal. See PROPOSAL SCHEDULE, page 5 of this RFP, for the due date of all requested Proposal Changes.

Change Number _____

Proposer _____

RFP Number – TM-24-01

Page: _____

Section: _____

Metro’s Current Requirement:

Proposer’s Requested Change:

SUSPENSION / DEBARMENT CERTIFICATION

In regard to 2 CFR Parts 180 and 1200

In accordance with 2 CFR Parts 180 and 1200, the contractor is required to verify that none of its principals or affiliates:

- 1) is included on the federal government’s suspended and debarred list;
- 2) is proposed for debarment, declared ineligible, voluntarily excluded or disqualified;
- 3) within three years preceding this proposal, has been convicted of or had a civil judgment rendered against them for (a) commission of fraud or criminal offense pertaining to performing a public transaction, (b) violation of any federal or state antitrust statute, or (c) embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
- 4) is indicted or charged by a governmental entity for any of the charges in 3) above; and
- 5) has had any public transaction terminated for cause or default within three years preceding this proposal.

The contractor is required to include this requirement in any subcontracts related to this contract.

By signing and submitting its proposal, the proposer certifies that the certification in this clause is a material representation of fact relied upon by Metro. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to Metro, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The proposer agrees to verify that none of its principals or affiliates is included on the federal government’s suspended and debarred list at any time throughout the period of this contract. The proposer further agrees to include a provision requiring the same compliance in its subcontracts related to this contract.

Signature: _____

Name and Title: _____

Company Name: _____

Date: _____