

ProcurementPRO

software solutions

Final
Report



ProcurementPRO, a web based software program designed to help assist transportation professionals conform to federal procurement standards when utilizing federal funds.

Submitted By:



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TABLE OF CONTENTS

4 - Executive Summary
4 - Introduction
5 - Purpose and Need
5 - Project Team
5 - Methodology
6 - Project Declaration
7 - Project Staffing
8 - Project Execution
8 - Federal Review
9 - Relational Exchange
9 - Technical Development -Technical Assistance
10 - Instructional Checklists and Documentation Development
11 - Alpha and Beta Testing
14 - Implementation
14 - Review and Support Recommendations
15 - Project Conclusion
Appendices:
Exhibit A - Relationship Builder Flow Process
Exhibit B - Naming Conventions, Tab Structure
Exhibit C - Federal Clauses
Exhibit D - Federal Certifications
Exhibit E - Other Useful Documents
Exhibit F - Beta Testing Checklist
Exhibit G - Beta Assignment Scenario Template
Exhibit H - Useful Links Recommendations

EXECUTIVE SUMMARY



The National Rural Transportation Assistance Program (NRTAP) was established in 1987 and serves as the National entity to the Federal Transit Administration (FTA) as a resource for rural transit providers throughout the country to access Federal regulatory updates, news, links to other transit providers, and other national transportation organizations. NRTAP is made up of a Board of Directors

and committee members from each state throughout the US. NRTAP operates continuously because of an agreement between the Federal Transportation Administration and the Neponset Valley Transportation Management Association

NRTAP staff, training programs, as well as programs offered on their website provides rural transit providers the tools they need in order to develop their transit services in a more effective, safe, and efficient manner. The online NRTAP portal is a vital resource for rural transit managers and their staff as a tool for those rural transit systems that oftentimes have limited familiarity and/or access to training for staff.

INTRODUCTION

NRTAP has tasked the firm of Main Street Connections with the interpretation of FTA procurement policies and to make recommendations when using federal funds to finance projects. These interpretations are to be incorporated into a comprehensive procurement software package in order to assist transit providers in the purchase of products and services within the transportation industry.



NRTAP is seeking a software program that enables all transit agency personnel, both experienced and those new to the procurement process, the ability to acquire in a user-friendly manner, transit products and services following federal procurement guidelines. The program that was developed and is now referred to as ProcurementPRO has been thoroughly tested with the ultimate goal of accessing the program through the NRTAP's website and used as an interactive procurement guidance tool for the transit professional. This program has been reviewed by the Federal Transportation Administration (FTA), State Department's of Transportation, and transit agencies nationwide.

Throughout the development of this program, numerous meetings and teleconferences were held beginning June 2010 and March 2011 with the NRTAP, their advisory group, and the project team from Main Street Connections. Comprehensive Alpha Testing by all project personnel was performed to review development and make modifications based on findings. Subsequently Beta Testing pursued with participation of a national audience of professionals from government and transit agencies around the country.

The software design and development team secured to house the federal procurement guidelines was lead by Mr. Frank Condon. Mr. Condon's team built the system based upon recommendations from the project team of Main Street Connections, NRTAP staff, and their Review Board Members who provide their own unique experience and expertise of the transit industry, and played an integral role in offering feedback and transit knowledge to develop this program.

PURPOSE AND NEED

ProcurementPRO was developed based upon recommendations from the NRTAP board members, as a comprehensive tool to assist rural transit providers in the procurement of transit related products and services. Products including buses, bus shelters, vehicle maintenance products, as well as services including architectural and engineering services, construction, third



party operating contracts, or procuring consultants for transit studies were included within the software. With limited staff and oftentimes, limited resources, it is the intent of ProcurementPRO to guide users from the beginning to end stages of the procurement process. Because the Federal Transit Administration serves as a primary funding source for these transit products and services, it is imperative that the software offers an easy, but comprehensive method of procuring products according to Federal regulations which is also accessible to rural transit providers nationwide.

PROJECT TEAM

NRTAP is the agency spearheading this effort because of their in-depth needs of rural transit providers. NRTAP procured the consulting firm of Main Street Connections to perform the interpretation and dissemination of the FTA’s procurement policies, procedures, and recommendations. Main Street Connections specializes in the field of rural public transportation, and offers the knowledge and services specific to the unique needs of rural transit providers. Our mission is to create and implement innovative new programs and campaigns for transportation mobility professionals and their communities.



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METHODOLOGY

NRTAP hired the firm of Main Street Connections to assist their software development team lead by Mr. Frank Condon to conceive a database flow process that upon the decision on a projects initiation that utilizes federal funding will help facilitate its acquisition in an accurate



and user-friendly manner. A project or service selected must follow the correct pathway and the software automatically affixes the appropriate federal clauses, certifications, and other necessary supporting documentation to assure compliance with FTA procurement standards. This is done based upon the “Procurement Type” (ie: Rolling Stock), price and quantity of goods or services, and “Method of Procurement” (ie: IFB). The results are narrowed down and presented with the appropriate federal clauses,

certifications, and other useful documentation as applied to the individual product or service criteria entered into the program. The end user is now able to purchase the necessary transit products or services, with greater confidence of adhering to procurement guidelines, and without a comprehensive knowledge of the federal procurement process.

PROJECT DECLARATION

VISION STATEMENT

By developing a procurement tool that can achieve ease of navigation through the federal procurement process, the intent of the process is better achieved, more competition is enabled, and a more efficient use of federal resources will result, all of which translates into potential tax payer savings.



Additionally, by offering an accessible format, the software allows state and local governments the opportunity to import their local procurement practices and thresholds into the software program as well. A comprehensive and diversified procurement method that may draw a wider audience is the result.

The vision of the future of this tool should also take into consideration the following:

- Comment Review - Allowing for a comment field in the final design.
- Performance Indicators – For tracking the internal uses of the tool.
- Benchmarks and Milestones - Set benchmarks/milestones for establishing a regular schedule for system review.
- Open Source Product - Build an open source product could allow states and localities access for local development.
- Adaptability - Development on a non-proprietary platform.
- Review and Update - As federal updates occur so should ProcurementPRO.

MISSION

Provide guidance to National RTAP and their software vendor for the development of an automated or semi-automated procurement process. The guidance results in a tool that assists transportation industry professionals in navigating the complex world of federal procurement and associated documentation.

The ProcurementPRO Program will guide the transportation professional through the federal procurement process in a well organized and efficient manner. The project characteristics will ultimately determine for the end user which federal clauses and certifications apply to the particular purchase, effectively taking any guess work out of the equation. By using the program's step by step requirements the end user is easily guided through the federal procurement process.

Key milestones and benchmarks associated with this project will be established for on-going oversight.

GOAL

The goal is to guide the transportation through an online, user friendly, federal procurement process in order to ensure that the correct purchase requirements are met.

CORE OBJECTIVES

An automated Procurement Program that will guide the transportation professional through the federal procurement process by entering unique project characteristics into the software program, resulting in receipt of step by step requirements to guide them through the process.



PROJECT STAFFING

LEAD AGENCY

The National RTAP is the project lead and responsible for overall project oversight and software design.

National RTAP Staffing

Cindy Frene – Administrator
Rob Tassinari - Senior Tech Manager
Pam Russell DiGiovanni - Assistant Director

Patricia Monahan – Director
Frank Condon - Administrator

STEERING COMMITTEE

The National RTAP Members and Selection Committee provide support in an advisory capacity to all participants and components of the project.

Steering Committee Staffing

Robert Sharp- PennDOT
Tim Geibel – Crawford Area Transit Auth.
William Telovsky –NY State DOT
Debbie McGlasson – Pelivan Transit

Bobby Killebrew – Texas DOT
Tine Cote - Franklin Reg. Transit Auth.
Michael Wright - Florida DOT

CONSULTING TEAM

Main Street Connections provides technical, interpretational, and operational support to NRTAP regarding federal procurement guidelines.

Consulting Staffing

Michael LaBello - Project Lead

Jennifer Thorne - Project Research

BETA TESTING TEAM

The testing team tasked with final testing and review of the software product as it is intended to be viewed. Review is for accuracy, understanding, and ease of use.

Beta Team Staffing

Jessica DeBartolo - Alaska, State DOT
Tim Geibel - PA, Transportation Authority
Debbie McGlasson – OK, Rural Transit

Laurie Fucini-Joy - MA, FTA Region 1
Joe Costanzo - MA, Small Urban

PROJECT EXECUTION

The “Project Execution” was performed in several phases along side the NRTAP and their Development team with key milestones and benchmarks associated with this project to keep it on schedule. Federal review of current procurement practices, technical review of the accuracy of application results, design/build and real time testing events, and end-user deliverable products.

The “Project Execution” was performed in five general phases:

1. Federal Review
2. Relational Exchange
3. Technical Development – Technical Assistance
4. Checklist and Documentation Development
5. Alpha and Beta testing
6. Review Recommendations
7. Project Conclusion

PART I – FEDERAL REVIEW



The federal review consisted of a comprehensive review of current federal transportation procurement guidelines, which would eventually be imported into the ProcurementPRO program. The review phase was to ensure that all Federal Transit Administration procurement standards and any recent changes were accounted for.

Documentation reviewed consisted of:

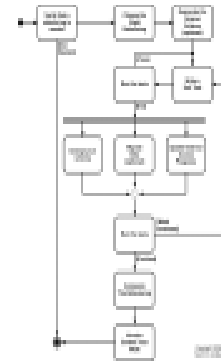
1. Best Practices Procurement Manual (BPPM)
2. Third Party Contracting Guidance Circular 4220.1F
3. Grant Management Requirements Circular 5010.1D
4. Master Grant Agreement FTA MA (16 & 17), Oct 1, 2009/2010
5. Federal Clauses and Certifications for recent changes

PART II – RELATIONSHIP EXCHANGE

The unified development of the back-end database elements and flow process of federal procurement guidelines and interpretations is integral to front-end interaction and facilitation of end-user.

The understanding and ease of use of ProcurementPRO is directly related to this phase. While seeming technical in explanation, it is the backbone of the software's interpretation and dissemination of information.

Development of the information exchange required an understanding of relational database design and federal procurement guidelines and how the two needed to become one.



Development in this phase consisted of:

1. Federal Flow Process - Development of individualized procurement flow process based on naming conventions, elements, Procurement Types, Methods, and cost.(see Exhibit A)
2. Federal Flow Charts – Charted relationships of correlations between Procurement Type, Method, and Cost for technical assistance to the software developers.
3. Procurement Thresholds - Identification and development of threshold platforms and how they relate to clauses, certifications, and other supporting documentation.
4. Functionality – Initial Alpha back-end testing of various queries associated with established flow process. This was necessary to establish an accurate foundation to design/build on.
5. End-User Interaction Alpha front-end testing of various queries associated with established flow process. This was necessary to ensure back-end accuracy flowed naturally to front-end visibility.

PART III – TECHNICAL DEVELOPMENT-TECHNICAL ASSISTANCE

Technical development was a collaborative development of back-end database tools, user-friendly formatting, and a beginning understanding of the flow process needed to connect the federal procurement guidelines and interpretations resulting from the federal review phase with the software technology.

Technical assistance consisted of project discovery, development, and implementation as it pertained to guiding both NRTAP and their software developer through the federal procurement process for current standards, all inclusive behaviors, and necessary structure and format for use with chosen program technology.



Technical Development Consisted of:

1. Naming Conventions – Required for consistent naming of federal procurement terms in software. (see Exhibit B)
2. Element Numbers - The identification numbers of various elements associated with the federal procurement process including their stages of interactivity.
3. Federal Clause Definition Files - Development of pre-formatted individualized Federal Clause Definition Files for roll-over assistance. (see Exhibit C)

4. Federal Certification Definition Files - Development of pre-formatted individualized Federal Certification Definition Files for roll-over assistance. (see Exhibit D)

Technical Assistance Consisted of:

1. Terminology- Clarification throughout the project to NRTAP regarding the federal terminology used and its reasoning and intent as needed.
2. Federal Review and Clarification – Assure software design has all current practices in final design.
3. Database Relational Structure and Interaction – Review the accuracy of technical design, structural integrity of data, and design/build formatting.
4. On-going Review and Cross Training - On-going federal education for the duration of the project as needed.

PART IV – INSTRUCTIONAL CHECKLIST & DOCUMENTATION DEVELOPMENT

Development of the documentation that the end-user will see after entering the specific procurement characteristics into ProcurementPRO is guided by the environment, and in final form is a downloadable file complete with instruction, checklists, federal clauses, certifications and other supporting attachments. Resulting data dissemination comes in the form of eight (8) Tabs offering up a banquet of useful products for varying situations. The intent of the final product is to guide the end-user, not just through the procurement process in and of itself, but to offer a storage warehouse for project information ranging from project inception, to project closeout. The warehouse offers an electronic home that can be visited, updated, and shared at any time.

Implementation requires containment of procurement standards, definitions and sample files, inclusion of current federal clauses and certifications, appropriate checklists that offer step by step guidance, downloadable documentation offering tools of the trade, and updating capability to maintain consistent and current standards as they pertain to the industry.



How is all this movement of information and documentation determined? Through the relational exchange phase (described above) all information and documentation contained within the database is related to each other through a series of tables and queries and unique identifiers. It in turns calls out the information based on the end-user entries, and produces a procurement file unique to the project at hand. While the intent of the software is guidance only, its ability to manage a project and its information, and live electronically if elected to do so, offers transit professionals an administrative functionality beyond that of even the original intent.

The documentation that is contained with ProcurementPRO is as follows:

1. Introduction – An introduction to ProcurementPRO and the two processes by which you may utilize the program.
2. Tab Checklists - The intent of checklist are to guide through every phase as it pertains to federal procurement requirements.

3. Required Federal Clauses – A comprehensive listing of required clauses called out based on selected procurement characteristics.
4. Required Federal Certifications – A comprehensive listing of required certifications called out based on selected procurement characteristics.
5. Definition Files - Accompanying definition/help files of standard procurement language including detailed descriptions of federal clauses and certifications selected from procurement characteristics.
6. Project Closeout - Detailed guidance on project closeout and file retention procedures for future use if needed.
7. Other Useful Documentation – Such as cost or price analysis forms, piggyback checklists, comprehensive construction checklists, environmental assessment forms, and reimbursement checklists to name a few. (see Exhibit E)

Further Useful Documentation and Tools incorporated into ProcurementPRO include:

As deemed useful, other documentation will be incorporated into checklists or as stand alone documents regarding informational subject matter, additional guidance, useful references, and Frequently Asked Questions.

1. Disclaimer - A disclaimer specifying mutually-agreed upon terms and conditions as part of the use of the software. It specifies warnings or expectations to the end-user and is intended to limit exposure to damages.
2. Mission Statement – National RTAP’s undertaking is outlined in an agency “Mission Statement” presented at the introductory level.
3. Related Links – Always deemed beneficial, useful related links pertaining to federal procurement practices and guidelines were established and incorporated into the front-end interface as further guidance tools.
4. Comment Form – Popular on most websites now a days a comment form was established where the end-user can enter questions, concerns, or recommendations for improvements.
5. Frequently Asked Questions – Like a comment form a listing of commonly asked questions pertaining to federal procurement guidelines is accessible to offer the end-user a place to go for a quick answer.

PART V – ALPHA AND BETA TESTING



A principal intention of testing is to detect failures in software functionality so that defects may be discovered and corrected. Testing includes examination of code, execution of various environments and conditions, project support, end-user functionality, and facilitation of scope of services.

In the current traditions of testing, the development team may be separate from organizations. There are various roles for testing team members and these rolls fall in two groups as outlined below:

Alpha Phase

This is the testing of the early version of a software product that may not contain all of the features that are planned for the final version. It is performed only by users within the organization developing the software to assure development is going as anticipated. This phase of testing was performed by members of the NRTAP and the project team of Main Street Connections. See components of Alpha Testing phase below.

Beta Phase (see Exhibit F)

This is the final testing phase of a software product as it is intended to be viewed. It was performed by development staff and potential end-users for accuracy, understanding, and ease of use. See components of Beta Testing phase below.

Internal phases of Alpha testing included:

1. Scheduled Component Testing - A planned testing schedule and duration as the project progressed through phases.
2. Testing Checklist Development – An established checklist was developed to be utilized by testers to follow.
3. Alpha Testing Assignments - Schedule of assignments as associated with development phases was performed.
4. Consensus Approval Policy at Component Stages – NRTAP provided testing approval.
5. Alpha Phase Exit Testing – With completion of design/build a final alpha testing exit review was performed.
6. Consensus Approval Policy at Exit Stage - Approval to move to beta testing followed a NRTAP approval process.

Internal phases of Beta testing included:

1. Stakeholder Conference to Select Beta Testers - Selection of Beta testers was managed by NRTAP to assure all considerations are taken into account. A kick-off conference call was held to provide a question and answer session.
2. Develop Testing Instructional Guide and Checklist - An instructional guide to follow testing procedures was developed to assure a uniform testing process by all end-users.
3. Beta Testing Assignments - A schedule of assignments for chosen beta testers was drafted. (see Exhibit G)
4. Exit Survey Process - An exit survey was performed to assess testing results.
5. Assessment of Surveys – Necessary modification needed as a result of surveys were performed and re-tested.
6. Approval Policy for Beta Testing Closeout - Approval to move to implementation phase was given by NRTAP.

Alpha and Beta Testing Findings, Results and Recommendations

ProcurementPRO is the evolution of a software program which began as an idea among National RTAP Review Board members and progressed into a tangible product that has exceeded expectations in a very short time. The findings, results, and recommendations as compiled below are viable interests that can and should be considerations for implementation both now and/or over time as the product continues to evolve.

- a. Place Eastern Standard Time (EST) on hours of support.
- b. Offer a duplicate project name warning.
- c. Provide a CFDA number dropdown option.
- d. Allow general information to flow to front cover.
- e. Provide functionality for up loading documents.
- f. Make help and definition files more user-friendly.
- g. Login malfunctions occasionally causing re-start.
- h. File saving process causes uncertainty and some duplication of files.
- i. Related links not consistent from page to page.
- j. Provide note or popup when no clauses or certifications are required.
- k. Recommend removal of ID Numbers appearing next to checkboxes throughout.
- l. Place project name on all steps.
- m. Why do checkboxes appear at locations requiring no check/uncheck process?
- n. Are popup times under milestones needed?
- o. Uncertainty of the save process working.
- p. Inability to get out of screen after print and save process.
- q. Step 2 of 9 confusing, a lot of duplication, perhaps another step is needed.
- r. Provide an auto SAVE from step to step, if disconnected all is lost.
- s. Could Procurement Master Checklist form be dynamic rather than static?
- t. PDF Printout has many shifting pages.
- u. Some on screen formatting a bit distracting.
- v. When in Quick Pro mode there is no identification of such.
- w. In addition to the above software cosmetic, formatting, and functionality inquiries, several procurement interpretations were questioned for clarification. These inquiries were resolved and responded to individually.

PART VI - IMPLEMENTATION

An implementation date (GO-LIVE) was set by National RTAP for March 1, 2011. A press release will accompany the implementation phase.

Implementation includes two phases, a Soft Launch Phase (without marketing), and a Hard Launch Phase (with marketing) that are to be accompanied with webinars (the first webinar will be for state RTAP Managers, and the second webinar will be for the general public).

Recommended benchmarks and milestones for product review and annual updates are suggested at 6 month intervals after implementation to assure current and accurate information is maintained. A web based on-going forum to handle inquiries regarding procurement interpretations and software functionality should also be established. These recommendations are stated below in Part VI – Review and Support Recommendations.

PART VII – REVIEW and SUPPORT RECOMMENDATIONS

It is recommended an assessment and review schedule be established at regular intervals after go-live to assure accuracy of content remains current, and functionality of software has a consistent and on-going review process.

Also recommended is the development of a community message board (forum) for support, discussion, and interaction between the Core Development Team and the Transportation Professional to handle inquiries in a structured manner.

Review and Support Points:

- Federal Procurement Assessment – Re-assessment of the federal standards built into the tool.
- Technical Assessment – Re-assessment of the functionality and adaptability of the software.
- Performance Assessment – Re-assessment of the tools abilities, depth, and design.
- Beta Testing – Testing of product to assure continued accuracy.
- ProcurementPRO Support Forum – On-Going interaction with transportation professional.

Review/Support Period Recommendations:

1. April Review – A general product review period is recommended amounting to a review of comments and suggestions, assessment of surveys received during prior period, an assessment of on-going functionality and accuracy of content, and finalized with a Beta Testing phase. A report on finding, suggestions, and modifications should be drafted.
2. October Review – Federal interpretation review including a comprehensive review of proposed and implemented federal changes to Master Agreement, Federal Circular 4220, Federal Circular 5010, and the Best Practices Manual. A report on finding, suggestions, and modifications should be drafted.
3. Support Forum – The ProcurementPRO Support Forum should be established and offer on-going interaction with the transportation public to field inquiries in a timely manner.

PART VIII – PROJECT CONCLUSION

The overarching goal and purpose of this project was to provide guidance for the design and development of an automated or semi-automated procurement process with the intent to provide a tool that assists transportation industry professionals in navigating the complex world of the federal procurement process and documentation associated with it.

The final product, referred to as “ProcurementPRO” will help facilitate and guide the transportation professional through both large and small project procurements by entering and submitting their unique project characteristics into the software program. They would then receive back step by step requirements to guide them through the process.

It is accessible through a web interface with login access and individualized capabilities for project management. The program offers downloadable checklists and documentation in PDF formats which can be printed, or saved to a local hard drive. It offers guidance through a procurement project from inception to closeout.

The formatting offers step by step procurement procedures, ordered checklists, and file collection procedures. It contained many bells and whistles such as: rollover definitions and help files, useful links (see Exhibit H), frequently asked questions (see Exhibit I), video training, support forums, and a live help line.

The primary goal of the project was to offer a user-friendly interface, provide best practices in procurement, facilitate comprehensive procedures assuring federal guidelines are adhered to, and providing better industry competition through education and understanding of the federal procurement process. This was achieved through a database design that integrated the interpretation of federal procurement guidelines with the relational blueprint of a database structure consisting of external, conceptual and internal architecture.

Several areas are analyzed to fully complement and achieve comprehensive guidance through a federal procurement. Managing compound procurements means encapsulating within the program multiple procurement scenarios in the acquisition areas of rolling stock, design and construction, operations and maintenance, materials and supplies, and personal services. Varying thresholds had to be accommodated based on federal guidelines ranging from micro-purchases up to \$3,000, to small purchases up to \$100,000 and competitive solicitations for values greater than \$100,000. Finally, the methods of procurement that could be entertained in the acquisition process were brought into the software, rounding out the tools capabilities.

The resulting product is a procurement program that assesses various procurement situations, presents alternatives, ascertains appropriate documentation, and provides management capabilities for a projects procurement life and beyond.

ProcurementPRO’s depth offers better accountability of process oriented acquisition administration; a transparent methodology pertaining to the steps involved in a federal procurement, and allows for more fiscally responsible management of federal funding on a nationwide basis.

Appendices

EXHIBIT A

Naming Conventions relationship Builder

clause id	procurement_clause	Above Small Purchase	Small Purchase	Micropurchase (<\$3,000)	Micropurchase (<\$2,000)	Category
1	Fly America Requirements	>1	<1	<1	<1	1 Professional Services, A&E
2	Buy America Requirements	>2	<2	<2	<2	2 Operations/ Management
3	Charter Bus and School Bus Requirements	>3	<3	<3	<3	3 Rolling Stock Purchase
4	Cargo Preference Requirements	>4	<4	<4	<4	4 Construction
5	Seismic Safety Requirements	>5	<5	<5	<5	5 Materials & Supplies
6	Energy Conservation Requirements	>6	<6	<6	<6	
7	Clean Water Requirements	>7	<7	<7	<7	
8	Bus Testing	>8	<8	<8	<8	
9	Pre-Award and Post-Delivery Audit Requirements	>9	<9	<9	<9	
10	Lobbying	>10	<10	<10	<10	
11	Access to Records and Reports	>11	<11	<11	<11	
12	Federal Changes	>12	<12	<12	<12	
13	Bonding Requirements	>13	<13	<13	<13	
14	Clean Air	>14	<14	<14	<14	
15	Recycled Products	>15	<15	<15	<15	
16	Davis-Bacon and Copeland Anti-Kickback Acts	>16	<16	<16	<16	
17	Contract Work Hours and Safety Standards Act	>17	<17	<17	<17	
18	No Government Obligation to Third Parties	>18	<18	<18	<18	
19	Program Fraud and False or Fraudulent Statements and Related Acts	>19	<19	<19	<19	
20	Termination	>20	<20	<20	<20	
21	Government-Wide Debarment and Suspension (Non-procurement)	>21	<21	<21	<21	
22	Privacy Act	>22	<22	<22	<22	
23	Civil Rights Requirements	>23	<23	<23	<23	
24	Breaches and Dispute Resolution	>24	<24	<24	<24	
25	Patent and Rights in Data	>25	<25	<25	<25	
26	Transit Employee Protective Agreements	>26	<26	<26	<26	
27	Disadvantaged Business Enterprises (DBE)	>27	<27	<27	<27	
28	Incorporation of Federal Transit Administration (FTA) Terms	>28	<28	<28	<28	
29	Drug and Alcohol Testing	>29	<29	<29	<29	
30	Conformance with ITS National Architecture	>30	<30	<30	<30	
31	Access Requirements for Persons with Disabilities	>31	<31	<31	<31	
32	Notification of Federal Participation	>32	<32	<32	<32	
33	Prohibition Against Exclusionary or Discriminatory Specifications	>33	<33	<33	<33	
34	Interest of Member or Delegates to Congress	>34	<34	<34	<34	
35	Equal Employment Opportunity (EEO) and Fair Employment Practices	>35	<35	<35	<35	
36	Affirmative Action/ Equal Employment Opportunity Policy & Requirements	>36	<36	<36	<36	
37	Ineligible Contractors and Subcontractors	>37	<37	<37	<37	
38	Other Contract Requirements	>38	<38	<38	<38	
39	Compliance with Federal Regulations	>39	<39	<39	<39	
40	Real Property	>40	<40	<40	<40	
41	Access to Services for Persons with Limited English Proficiency	>41	<41	<41	<41	
42	Environmental Justice	>42	<42	<42	<42	
43	Federal Single Audit	>43	<43	<43	<43	
44	Assignability Clause	>44	<44	<44	<44	
45	Catalog of Federal Domestic Assistance (CFDA) Identification Number	>45	<45	<45	<45	

EXHIBIT B

Suggested Naming Convention Formats for ProcurementPRO

The following Naming Conventions are based upon research of Federal Circulars 4220 and 5010, as well as the Federal Best Practices Manual. Standardized naming conventions have been incorporated as well as suggested naming conventions as they pertain to “Other Useful Documentation, Checklists, and Structured Tabs for content management within the software design.

Naming Conventions have two primary uses. First they are instrumental in relational database design and its corresponding table structure through unique identifiers. Second, they offer a user-friendly and familiar name that has become customary and expected language in the transportation industry.

Below are the suggestions for your consideration:

A. Procurement Methods

Procurement Methods are anticipated to fall under one of six (6) categories as listed below.

- 1) Invitation for Bid (IFB)
- 2) Request for Proposal (RFP)
- 3) Request for Quotation (RFQ)
- 4) Sole Source
- 5) Piggyback
- 6) Non-Competitive Quotation

B. Procurement Types

Procurement Types are anticipated to fall under one of five (5) categories as listed below.

- 1) Professional Services/A&E
- 2) Operations/ Management
- 3) Rolling Stock Purchase
- 4) Construction
- 5) Materials & Supplies

C. Procurement Cost

Procurement Costs are anticipated to fall under one of three (3) categories as listed below.

- 1) Micro-Purchase (Less than \$3,000, \$2,000 for Davis Bacon)
- 2) Small Purchase (Between \$3,000 and \$150,000)
- 3) Sealed or Competitive Bid* (Above Small Purchase Threshold)

**Sealed Bid – Refers to lowest priced responsive bid.*

**Competitive Bid - Refers to, Evaluation based on performance and circumstances other than price alone.*

D. Federal Clauses

Federal Clauses are anticipated to fall under forty-five (45) different categories. Twenty-nine (29) unique federal clauses and an additional sixteen (16) titled “Other federal Requirements” as listed below.

Clauses

- 1) Fly America Requirements

- 2) Buy America Requirements
- 3) Charter Bus and School Bus Requirements
- 4) Cargo Preference Requirements
- 5) Seismic Safety Requirements
- 6) Energy Conservation Requirements
- 7) Clean Water Requirements
- 8) Bus Testing
- 9) Pre-Award and Post Delivery Audit Requirements
- 10) Lobbying
- 11) Access to Records and Reports
- 12) Federal Changes
- 13) Bonding Requirements
- 14) Clean Air
- 15) Recycled Products
- 16) Davis-Bacon and Copeland Anti-Kickback Acts
- 17) Contract Work Hours and Safety Standards Act
- 18) No Government Obligation to Third Parties
- 19) Program Fraud and False or Fraudulent Statements and Related Acts
- 20) Termination
- 21) Government-wide Debarment and Suspension (Non-procurement)
- 22) Privacy Act
- 23) Civil Rights Requirements
- 24) Breaches and Dispute Resolution
- 25) Patent and Rights in Data
- 26) Transit Employee Protective Agreements
- 27) Disadvantaged Business Enterprises (DBE)
- 28) Incorporation of Federal Transit Administration (FTA) Terms
- 29) Drug and Alcohol Testing

Other Federal Requirements

- 30) Prohibition Against Exclusionary or Discriminatory Specifications
- 31) Conformance with ITS National Architecture
- 32) Access Requirements for Persons with Disabilities
- 33) Notification of Federal Participation
- 34) Interest of Member or Delegates to Congress
- 35) Equal Employment Opportunity (EEO) and Fair Employment Practices
- 36) Affirmative Action/ Equal Employment Opportunity Policy & Requirements
- 37) Ineligible Contractors and Subcontractors
- 38) Other Contract Requirements
- 39) Compliance with Federal Regulations
- 40) Real Property
- 41) Access to Services for Persons with Limited English Proficiency
- 42) Environmental Justice
- 43) Federal Single Audit
- 44) Assignability Clause
- 45) Catalog of Federal Domestic Assistance (CFDA) Identification Number

E. Federal Certifications

Federal Certifications are anticipated to fall under one of nine (9) categories listed below.

Certifications

- 1) Certification Regarding Lobbying (incl. Standard Form LLL when required)
- 2) Certification Regarding Debarment and Suspension

- 3) Certification of Bus Testing and Test Report
- 4) Buy America Pre-Award Certification (Rolling Stock)
- 5) Buy America Post-Delivery Certification (Rolling Stock)
- 6) Buy America Pre-Award Certification (Steel, Iron, Manufactured Products)
- 7) On-Site Inspectors Report
- 8) FMVSS Certificate of Compliance
- 9) Transit Vehicle Manufacturer Certification (DBE)

F. Other Solicitation and Specification Requirements

Other Solicitation and Specification Requirements anticipated fall under one of eleven (11) categories listed below.

- 1) Bid Proposal (One for Each Participating Municipality)
- 2) Addenda Page
- 3) Vehicle Pollution Control Requirements
- 4) Locations of Technical Service & Parts Representatives
- 5) Vehicle Warranty Requirements
- 6) Detailed Vehicle Performance Specifications
- 7) Illustrated literature of the vehicle to be provided
- 8) Bid Bond
- 9) Certificate of Eligibility
- 10) Equal Employment Opportunity
- 11) Certification Regarding Fire Safety Practices for Transit Bus Materials Selection

G. Other Documentation and Checklists

Other Documentation and Checklists anticipated to be useful in facilitating best practices and assisting in a comprehensive procurement file are as follows.

- 1) Bid Documentation Checklist
- 2) Instructions for Competitive Bidding/Solicitation and Piggybacking
- 3) Bidding/Solicitation Submission Documents
- 4) Addenda Acknowledgment
- 5) Piggyback Checklist
- 6) Reimbursement Checklist
- 7) Facility Checklist
- 8) Categorical Exclusion Determination Checklist
- 9) File Collection and Retention Checklist

H. Procurement Pro Tab Structure

The Tab Structure is the bond that holds the procurement file together for the duration of the project. Tab development will have many sub-tabs residing within each Tab that further guides the procurement process. For purposes of database relational design, only the Tabs are required in the naming conventions, and they are as follows.

- Tab 1 – Introduction and Instructions to ProcurementPRO
- Tab 2 – Master Checklist
- Tab 3 – Project Information Tab
- Tab 4 – Bid Development Tab
- Tab 5 – Solicitation and Bid Opening
- Tab 6 – Project Award
- Tab 7 – Progress Reports
- Tab 8 – Project Close-Out

For information purposes, Sub-Tab Structure can be viewed on the following pages.

Procurement Pro Tab Structure

The Tab Structure should be inclusive of associated Introductions, Instructions, and Checklists pre-inserted based on initial project entries into the software program. The results would be a printable booklet for use throughout the process. If it is to also have virtual capabilities it would be in similar format only living on the web via login rights.

Below are the recommended Tabs and Sub-Tabs to be built for assistance throughout the process.

Tab 1 – Introduction and Instructions

- Mission Statement
- National RTAP “Acceptance Disclaimer” (guidance not enforcement tool, state and local procurement laws may supersede, not responsible for compliance statement, and an “I Accept These Terms” check box.
- Introductions – Purpose and concept of program
- Instructions – Brief and User-friendly instructions describing the process.

Tab 2 – Master Checklist

- Complete Project “At a Glance” – A useful “One Pager” for locating where you are in the procurement process without having to dig into the Tabs.

Tab 3 – Project Information Tab

- Project Title
- Project Description
- Project Estimate
- Funding Secured
- Master Contacts (Federal, State, Local)
- Project Identifiers (STIP, TIP, Contract Num, Grant Num, etc)
- Milestones Anticipated
- Begin Building Project File
- Obtain all necessary correspondence for “Approval to Proceed”

Tab 4 – Bid Development Tab

Including as required: Bid Documentation Checklist, Bid Instructions, Bid Submission Documents, Piggyback Checklist, Construction Checklist, NEPA Checklist, and Other Documentation Checklist

- Independent Cost Estimate – *Initial Determination and Justification of the resources and costs that a project would incur in the performance of a contract.*
- Quotes Required Only – *Micro-Purchase or Small Purchase*
- State or Local Government Purchasing Schedule – *Agreements State or Local Government has established with vendors to provide options to State or Local Government to acquire property or services. FTA encouraged, but all Federal requirements apply.*
- Bid Development
 - ✓ Bid Type – *Fixed Price (IFB), Best Value (RFP), Sole Source, Option (Piggyback), Qualification Based*
 - ✓ Information for Bidders – *Quotations, Definitions, Conformity, Materials, Parts, Compliance, Evaluation Criteria, Pollution Control, Location of Service and Parts, Warranty Requirements, Tax Exempt Status, Quote Requirements, Award, Completion Requirements, Liquidation, Payment Terms, DBE requirements, Delivery, Indemnification, Inspection, Appeals, Bid Review, Bonding, Documentation, Assignability, Conflicts, Model Contract.*
 - ✓ Technical Specifications – *Detailed Project Specifications.*
 - ✓ Clauses and Certifications – *As required by project type and value.*
- Continue Building Project File
- Obtain all necessary correspondence for “Approval to Proceed”

Tab 5 – Solicitation and Bid Opening

- Advertise for Bid – *Without Geographic Preference if using Federal Funding.*
- Approved Equals Process - *As needed provide for an Approved Equals request process and allow time for timely response in a transparent manner.*

- Pre-Bid Meeting – *If necessary plan a Pre-Bid meeting to address any questions well in advance of bid opening, to allow potential bidders appropriate time to prepare their proposals. All responses to questions should be in an open and transparent manner to all potential bidders.*
- Bid Opening and Recording – *Record bid opening date, time, and those present.*
- Bid Review and Evaluation – *Record review process, those on the selection committee, and evaluation and/or scoring criteria used in the review.*
- Bid Tabulation - *Prepare a Bid Tabulation of all bidders for a side by side analysis of their scoring, reason and justification for selection, and reason for any disqualifications.*
- Cost or Price Analysis – *Used to determine there was adequate competition, and analysis of selected cost elements.*
- Award Selection and Justification – *A write-up on the chosen award selection, reasoning behind the selection, including results of reference checks, presentation results, firm qualifications, WBE and or DBE qualifications, scoring results, and any additional criteria used in the determination.*
- Draft Contract – *Prepare a Draft Contract for review by all parties involved.*
- Continue Building Project File
- Obtain all necessary correspondence for “Approval to Proceed”

Tab 6 – Project Award and Contract Administration

- Contract (Draft Version) – *For initial review by all parties.*
- Award Letter – *Draft and send award letter with Draft Contract for review.*
- Finalize Contract – *After all parties agree to terms, finalize Contract including:*
 - Task and Delivery Orders - *Agreement to fulfill all actual requirements of designated activities*
- Order to Proceed – *Order project to commence.*
- Develop Project Milestones – *based on project requirements, develop project milestones and benchmarks anticipated for the progression of the project.*
- Continue Building Project File
- Obtain all necessary correspondence for “Approval to Proceed”

Tab 7 – Progress Reports

- Document Progress – *Based on an established duration, build regular progress reports, record meeting minutes, document if all deliverables and task schedules are met/unmet, document problems, concerns, conflicts, delays, and their resolutions.*
- Change Orders – *Changes to project should be documented, their effects on design, cost, copies of legislative resolutions if needed to implement change orders, and the projects time-line.*
- Cost Benefit, Cost or Price Analysis – *Determination of reasonableness of costs associated with any change orders.*
- Modify Project Milestones – *based on changes to the project modify project milestones accordingly.*
- Continue Building Project File
- Obtain all necessary correspondence for “Approval to Proceed”

Tab 8 – Project Close-Out

Including as needed: Reimbursement Checklist

- Reimbursement Requests – *Inquire approximately 30 days prior to anticipated project completion as to required documentation needed to request reimbursement of any grant funding to be applied to the cost of the project.*
- Finalize Milestones – *Update all project milestones to their actual completion dates. Begin Project Close-Out Procedures*
- Physical Close-Out - *Turnover of control of the product, good, or service. Takeover of maintenance of deliverables, operations, responsibilities and organizational structure. Procedures for turnover and acceptance. Turnover and acceptance activities, transfers, and documentation. Finally, physical transfer of the deliverable and acknowledgement of receipt (acceptance) of the project deliverable is executed*
- Administrative Close-Out – *Preparation and collection of administrative and project documentation, logistics activities of project resources, archiving, financial account closure, facilities turnover (or closure), contract closure, and personnel reassignment.*
- Finalize Project File
- Request Approval to Close-Out the Project

EXHIBIT C

Federally Required Clauses

Fly America Requirements – Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Contractor shall comply with 49 USC 40118 (the “Fly America” Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US 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. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US 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. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

Buy America Requirements – Applicability – Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$100,000)
Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, stating that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the US for 15 passenger vans and 15 passenger wagons produced by Chrysler Corp., software, microcomputer equipment and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 60% domestic content. A bidder or offeror shall submit appropriate Buy America certification to the municipal corporation with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Charter Bus Requirements – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000).
Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and subrecipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, “Charter Service,” 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.

School Bus Requirements – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000).
Pursuant to 49 USC 5323(f) and 49 CFR 605, recipients and subrecipients of FTA assistance shall not engage in school bus operations exclusively for transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients shall not use federally funded equipment, vehicles, or facilities.

Cargo Preference - Use of US-Flag Vessels – Applicability – Contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000).
Contractor shall: a. 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 underlying contract to the extent such vessels are available at fair and reasonable rates for US flag commercial vessels; b. furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, “on-board” commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the municipal corporation (through contractor in the case of a subcontractor's bill-of-lading.) c. include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material, or commodities by ocean vessel.

Seismic Safety – Applicability – Construction of new buildings or additions to existing buildings. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Contractor agrees that any new building or addition to an existing building shall be designed and constructed in accordance with the standards required in USDOT Seismic Safety Regulations 49 CFR 41 and shall certify compliance to the extent required by the regulation. Contractor shall also ensure that all work performed under this contract, including work performed by subcontractors, complies with the standards required by 49 CFR 41 and the certification of compliance issued on the project.

Energy Conservation – Applicability – All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)
Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

Clean Water – Applicability – All Contracts and Subcontracts over \$100,000
Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the municipal corporation and understands and agrees that the municipal corporation shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

Bus Testing – Applicability – Rolling Stock/Turnkey
Contractor [manufacturer] shall comply with 49 USC A5323(c) and FTA's implementing regulation 49 CFR 665 and shall perform the following:

1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall **provide a copy of the final test report** to the municipal corporation prior to the municipal corporation's final acceptance of the first vehicle.

2) A manufacturer who releases a report under para. 1 above shall provide notice to the operator of the testing facility that the report is available to the public.

3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the municipal corporation prior to the municipal corporation's final acceptance of the first vehicle. If configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.

4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the US before Oct. 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

Pre-Award & Post-Delivery Audit Requirements - Applicability – Rolling Stock/Turnkey

Contractor shall comply with 49 USC 5323(l) and FTA's implementing regulation 49 CFR 663 and submit the following certifications:

- 1) Buy America Requirements: Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If contractor certifies compliance with Buy America, it shall submit documentation listing:
 - A. Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and
 - B. The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
 - C. Solicitation Specification Requirements: Contractor shall submit evidence that it will be capable of meeting the bid specifications.
 - D. Federal Motor Vehicle Safety Standards (FMVSS): Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the buses will not be subject to FMVSS regulations.

Lobbying – Applicability - Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000

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

Access to Records and Reports – Applicability – As shown below. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000), The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the municipal corporation, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

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

Federal Changes – Applicability – All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000) Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the municipal corporation and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

Bonding Requirements – Applicability – For those construction or facility improvement contracts or subcontracts exceeding \$100,000, FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts as follows:

- a. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantees" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- b. A performance bond on the part to the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from Contractors are as follows:
 - (1) 50% of the contract price if the contract price is not more than \$1 million;
 - (2) 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - (3) \$2.5 million if the contract price is more than \$5 million.
- d. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond.

Bid Bond Requirements (Construction)

(a) Bid Security - A Bid Bond must be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

(b) Rights Reserved - In submitting this Bid, it is understood and agreed by bidder that the right is reserved by (Recipient) to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of (Recipient).

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of (Recipient), shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of (Recipient's) damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by (Recipient) as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense (Recipient) for the damages occasioned by default, then the undersigned bidder agrees to indemnify (Recipient) and pay over to (Recipient) the difference between the bid security and (Recipient's) total damages, so as to make (Recipient) whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction)

The Contractor shall be required to obtain performance and payment bonds as follows:

(a) Performance bonds

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(b) Payment bonds

1. The penal amount of the payment bonds shall equal:

- (i) Fifty percent of the contract price if the contract price is not more than \$1 million.
- (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(iii) Two and one half million if the contract price is more than \$5 million.

2. If the original contract price is \$5 million or less, the (Recipient) may require additional protection as required by subparagraph 1 if the contract price is increased.

Performance and Payment Bonding Requirements (Non-Construction)

The Contractor may be required to obtain performance and payment bonds when necessary to protect the (Recipient's) interest.

(a) The following situations may warrant a performance bond:

1. (Recipient) property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).

2. A contractor sells assets to or merges with another concern, and the (Recipient), after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.

3. Substantial progress payments are made before delivery of end items starts.

4. Contracts are for dismantling, demolition, or removal of improvements.

(b) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).

2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.

The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the (Recipient's) interest.

(d) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

1. The penal amount of payment bonds shall equal:

(i) Fifty percent of the contract price if the contract price is not more than \$1 million;

(ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(iii) Two and one half million if the contract price is increased.

Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The (recipient) shall determine the amount of the advance payment bond necessary to protect the (Recipient).

Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The (recipient) shall determine the amount of the patent indemnity to protect the (Recipient).

Warranty of the Work and Maintenance Bonds

1. The Contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by (Recipient), free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by (Recipient) and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to (Recipient). As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment [as provided in Item X below], furnish separate Maintenance (or Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

Clean Air – Applicability – All contracts over \$100,000

1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the municipal corporation and understands and agrees that the municipal corporation will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

2) Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

Recycled Products – Applicability – All contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds. The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 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.

Davis-Bacon and Copeland Anti-Kickback Acts – Applicability – Construction contracts and subcontracts, including actual construction, alteration and/or repair, including decorating and painting, over \$2,000

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed. (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification. (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof. (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met: (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) Withholding - The municipal corporation shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the grantee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

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

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the municipal corporation for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following: (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete; (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3; (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract. (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code. (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the

Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of Eligibility - (i) By entering into this contract, contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (iii) The penalty for making false statements is prescribed in 18 USC 1001.

Contract Work Hours & Safety Standards Act – Applicability – Contracts over \$100,000

(1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.

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

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

No Government Obligation to Third Parties - Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

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

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

Program Fraud and False or Fraudulent Statements or Related Acts – Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, 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 FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.

(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Termination – Applicability – All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$100,000

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

b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the municipal corporation may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the municipal corporation that 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 contractor, the municipal corporation, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) the municipal corporation in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the municipal corporation's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the municipal corporation setting forth the nature of said breach or default, the municipal corporation 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 the municipal corporation from also pursuing all available remedies against contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that the municipal corporation elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the municipal corporation shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

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

f. Termination for Default (Supplies and Service) If 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 municipal corporation may terminate this contract for default. the municipal corporation shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall 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 contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the municipal corporation's convenience.

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

If this contract is terminated while contractor has possession of the municipal corporation goods, contractor shall, as directed by the municipal corporation, protect and preserve the goods until surrendered to the municipal corporation or its agent. Contractor and the municipal corporation shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the municipal corporation's convenience.

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

Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:

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

2. Contractor, within 10 days from the beginning of any delay, notifies the municipal corporation in writing of the causes of delay. If in the municipal corporation's judgment, delay is excusable, the time for completing the work shall be extended. the municipal corporation's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

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

i. Termination for Convenience or Default (Architect & Engineering) the municipal corporation may terminate this contract in whole or in part, for the municipal corporation's convenience or because of contractor's failure to fulfill contract obligations. the municipal corporation shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the municipal corporation all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the municipal corporation's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the municipal corporation may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the municipal corporation.

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

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

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

Government-wide Debarment and Suspension (Nonprocurement) – Applicability – Contracts over \$25,000

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 contractors, 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 the municipal corporation. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the municipal corporation, 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.

Contracts Involving Federal Privacy Act Requirements – Applicability - When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

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

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

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

Civil Rights Requirements – Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 USC 2000d, Sec. 303 of the Age Discrimination Act (1975), as amended, 42 USC 6102, Sec. 202 of the Americans with Disabilities Act (1990), 42 USC 12132, and 49 USC 5332, contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. Contractor shall also comply with applicable Federal implementing regulations and other 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 USC 2000e, and 49 USC 5332, contractor shall comply with all applicable equal employment opportunity requirements of USDOL, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, USDOL," 41 CFR 60 et seq., (implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC 2000e), and any applicable Federal statutes, executive orders, regulations, and policies that may in the future affect construction activities undertaken in the course of the project. Contractor shall 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, contractor shall comply with any implementing requirements FTA may issue.

(b) Age - In accordance with Sec. 4 of the Age Discrimination in Employment Act (1967), as amended, 29 USC 623 and 49 USC 5332, contractor shall refrain from discrimination against present and prospective employees for reason of age. Contractor shall also comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with Sec. 102 of the Americans with Disabilities Act (ADA), as amended, 42 USC 12112, contractor shall comply with the requirements of US Equal Employment Opportunity Commission (EEOC), Regulations to Implement Equal Employment Provisions of the Americans with Disabilities Act, 29 CFR 1630, pertaining to employment of persons with disabilities. Contractor shall also comply with any implementing requirements FTA may issue.

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

Breaches and Dispute Resolution – Applicability – All contracts over \$100,000

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the municipal corporation's authorized representative. This decision shall be final and conclusive unless within ten days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the municipal corporation's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the municipal corporation's CEO shall be binding upon contractor and contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the municipal corporation, contractor shall continue performance under this contract while matters in dispute are being resolved.

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

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the municipal corporation and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the municipal corporation or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Patent and Rights Data – Applicability – Research projects in which FTA finances the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual or to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

Contracts Involving Experimental, Developmental, Or Research Work.

A. Rights in Data - This following requirements apply to each contract involving experimental, developmental or research work: (1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added: (a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution. (b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party. 1. Any subject data developed under that contract, whether or not a copyright has been obtained; and 2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA. (c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects. (d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government. (e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent. (f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work. (g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA. (3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401. (4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. Patent Rights - The following requirements apply to each contract involving experimental, developmental, or research work:

- (1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.
- (2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
- (3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

Transit Employee Protective Provisions – Applicability – Contracts for transit operations except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

- (1) Contractor shall comply with applicable transit employee protective requirements as follows:
 - (a) Transit Employee Protective Requirements for Projects Authorized by 49 USC 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with FTA assistance authorized by 49 USC 5311, the contractor shall comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program that is most current, and any alternative comparable arrangement specified by U.S. DOL for application to the project, in accordance with U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, and any revision thereto. [New amendments to U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, were published at 73 Fed. Reg. 47046 et. Seq., August 13, 2008.]
- (2) Contractor shall also include any applicable requirements in each subcontract involving transit operations financed in whole or in part with FTA assistance.

Disadvantaged Business Enterprise (DBE) – Applicability – Contracts over \$3,000 awarded on the basis of a bid or proposal offering to use DBEs

- 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 municipal corporation's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

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

c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance. e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the municipal corporation. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the municipal corporation and contractor's receipt of the partial retainage payment related to the subcontractor's work.

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

Incorporation of Federal Transit Administration (FTA) Terms – Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated 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 request that would cause the municipal corporation to be in violation of FTA terms and conditions.

Drug & Alcohol Abuse and Testing – Applicability – Operational service contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701 et seq. b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, to the extent applicable.

Other Federal Requirements:

Full and Open Competition – In accordance with 49 U.S.C. § 5325(h) all procurement transactions shall be conducted in a manner that provides full and open competition.

Prohibition Against Exclusionary or Discriminatory Specifications – Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

Conformance with ITS National Architecture – Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

Access Requirements for Persons with Disabilities – Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

Notification of Federal Participation – To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

Interest of Members or Delegates to Congress - No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

Ineligible Contractors and Subcontractors - Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the municipal corporation shall cancel, terminate or suspend this contract.

Other Contract Requirements - To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with the municipal corporation's Procurement Guidelines, available upon request from the municipal corporation.

Compliance With Federal Regulations - Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the municipal corporation to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the municipal corporation and FTA, as 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.

Real Property - Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 29 CFR 18.31, 49 CFR 24 Subpart B, FTA Circular 5010.1D, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Access to Services for Persons with Limited English Proficiency - To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

Environmental Justice - The Recipient agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

Environmental Protections - Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

Geographic Information and Related Spatial Data - Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

Federal Single Audit Requirements For State Administered Federally Aid Funded Projects Only

Non Federal entities that expend \$500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, Audits of States, Local Governments, and Non Profit Organizations. Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than \$500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in '3052.215(a), but records must be available for review or audit by appropriate officials of the Federal and State agencies.

Catalog of Federal Domestic Assistance (CFDA) Identification Number

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

The CFDA number for the Federal Transit Administration Nonurbanized Area Formula (Section 5311) is 20.509. A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

EXHIBIT D

BUS TESTING CERTIFICATION

The undersigned bidder [Contractor/Manufacturer] certifies that the vehicle model or vehicle models offered in this bid submission complies with 49 CFR Part 665.

A copy of the test report (for each bid ITEM) prepared by the Federal Transit Administration's (FTA) Altoona, Pennsylvania Bus Testing Center is attached to this certification and is a true and correct copy of the test report as prepared by the facility.

The undersigned understands that misrepresenting the testing status of a vehicle acquired with Federal financial assistance may subject the undersigned to civil penalties as outlined in the U.S. Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the undersigned understands that FTA may suspend or debar a manufacturer under the procedures in 49 CFR Part 29.

Name of Bidder/Company Name

Type or print name

Signature of authorized representative

Signature of notary and SEAL

Date of Signature: ____/____/____

BUY AMERICA CERTIFICATION STEEL OR MANUFACTURED PRODUCTS

General Requirement (as stated in 49 CFR 661.5)

- (a) Except as provided in 49 CFR 661.7 and 49 CFR 661.11, no funds may be obligated by FTA for a grantee project unless all iron, steel, and manufactured products used in the project are produced in the United States.
- (b) All steel and iron manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.
- (c) The steel and iron requirements apply to all construction materials made primarily of steel or iron and used in infrastructure projects such as, transit or maintenance facilities, rail lines, and bridges. These items include, but are not limited to, structural steel or iron, steel or iron beams and columns, running rail and contact rail. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured products or rolling stock, or to bimetallic power rail incorporating steel or iron components.
- (d) For a manufactured product to be considered produced in the United States:
 - (1) All of the manufacturing processes for the product must take place in the United States; and
 - (2) All of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents.

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

Certificate of Compliance with Buy America Requirements.

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

Company _____

Name _____ Title _____

Signature _____ Date _____

Certificate of Non-Compliance with Buy America Steel or Manufactured Products Requirements The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. 661.7.

Company _____

Name _____ Title _____

Signature _____ Date _____

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

49 CFR Part 29, Executive Orders 12549, 12689, and 31 U.S.C.6101 (Contracts over \$25,000)

Background and Applicability

In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published an update to 49 CFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, Debarment and Suspension, Executive Order 12689, Debarment and Suspension, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for federally required auditing services. 49 CFR 29.220(b). This represents a change from prior practice in that the dollar threshold for application of these rules has been lowered from \$100,000 to \$25,000. These are contracts and subcontracts referred to in the regulation as “covered transactions.”

Grantees, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required. 49 CFR 29.300.

Grantees, contractors, and subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

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 the municipal corporation. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the municipal corporation, 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.

Contractor _____

Signature of Authorized Official _____ Date ____/____/____

Name and Title of Contractor's Authorized Official _____



CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, _____, hereby certify
(Name and title of official)

On behalf of _____ that:
(Name of Bidder/Company Name)

- 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 any agency, a Member of Congress, and 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.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the 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.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$150,000 for each such failure.

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

Name of Bidder/Company Name _____

Type or print name _____

Signature of authorized representative _____ Date __/__/__

Signature of notary and SEAL _____

ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION

(Post-Delivery purchaser's requirement, in compliance with the federal requirements of 49 U.S.C. Section 5323(m))

ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION

(Rolling Stock Procurements for more than 10 vehicles for areas >200,000 in population)

As required by 49 CFR Part 663-Subpart C, the

(Recipient's name)

Certifies that a resident inspector,

(Name of inspector)

Was at _____ (the manufacturer's)
manufacturing site during the period of manufacture of the buses,
_____ (description of buses).

The inspector visually inspecting the buses, the _____ (the
recipient) has reviewed the inspection documentation, maintains a copy of this report, and
certifies that the buses meet the contract specifications.

ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION

(Rolling Stock Procurements for more than 20 vehicles for areas <200,000 in population)

As required by 49 CFR Part 663-Subpart C, the

(Recipient's name)

Certifies that a resident inspector,

(Name of inspector)

Was at _____ (the manufacturer's)
manufacturing site during the period of manufacture of the buses,
_____ (description of buses).

The inspector visually inspecting the buses, the _____ (the
recipient) has reviewed the inspection documentation, maintains a copy of this report, and
certifies that the buses meet the contract specifications.

Signature: _____ Date ____/____/____

Title: _____



POST DELIVERY CERTIFICATION FOR PROCUREMENT OF ROLLING STOCK (VENDOR)

POST DELIVERY AUDIT REQUIREMENTS

A recipient purchasing revenue service rolling stock with FTA funds must ensure that a post-delivery audit is complete before title to the rolling stock is transferred to the recipient.

DESCRIPTION OF POST DELIVERY AUDIT

A post-delivery audit under this part includes: (a) A post-delivery Buy America certification as described in 49 CFR 663.35; (b) A post-delivery purchaser's requirements certification as described in 49 CFR 663.37; and (c) When appropriate, a manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in 49 CFR 663.41 or 49 CFR 663.43.

POST DELIVERY BUY AMERICA CERTIFICATION

For purposes of this part, a post-delivery Buy America certification is a certification that the recipient keeps on file that:

(a) There is a letter from FTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or

(b) The recipient is satisfied that the rolling stock received meets the requirements of section 165 (a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or by means of an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists:

(1) Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and

(2) The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.

POST DELIVERY PURCHASERS REQUIREMENTS CERTIFICATION

For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that—

(a) Except for procurements covered under paragraph (c) in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of such rolling stock. Such a report, at a minimum, shall:

- (1) Provide accurate records of all vehicle construction activities; and
- (2) Address how the construction and operation of the vehicles fulfills the contract specifications.

(b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.

(c) For procurements of:

- (1) Ten or fewer buses; or
- (2) Procurements of twenty vehicles or fewer serving rural (other than urbanized) areas, or urbanized areas of 200,000 people or fewer; or
- (3) Any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing the vehicles, the vehicles meet the contract specifications.

POST DELIVERY AUDIT REVIEW

(a) If a recipient cannot complete a post-delivery audit because the recipient or its agent cannot certify Buy America compliance or that the rolling stock meets the purchaser's requirements specified in the contract, the rolling stock may be rejected and final acceptance by the recipient will not be required. The recipient may exercise any legal rights it has under the contract or at law.

(b) This provision does not preclude the recipient and manufacturer from agreeing to a conditional acceptance of rolling stock pending manufacturer's correction of deviations within a reasonable period of time.

POST DELIVERY FMVSS COMPLIANCE CERTIFICATION

If a vehicle purchased under this part is subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, a recipient shall keep on file its certification that it received, both at the pre-award and post-delivery stage, a copy of the manufacturer's self-certification information that the vehicle complies with relevant Federal Motor Vehicle Safety Standards.

Certificate of COMPLIANCE with Buy America Rolling Stock Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable regulations of 49 CFR 661.11.

Company _____

Name _____ Title _____

Signature _____ Date ___ / ___ / ___

Certificate of NON-COMPLIANCE with Buy America Rolling Stock Requirements

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

Company _____

Name _____ Title _____

Signature _____ Date ___ / ___ / ___

PRE-AWARD CERTIFICATION FOR PROCUREMENT OF ROLLING STOCK (RECIPIENT)

BUY AMERICA REQUIREMENTS

Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If contractor certifies compliance with Buy America, it shall submit documentation listing:

- A. Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and
- B. The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
- C. Solicitation Specification Requirements: Contractor shall submit evidence that it will be capable of meeting the bid specifications.
- D. Federal Motor Vehicle Safety Standards (FMVSS): Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the buses will not be subject to FMVSS regulations.

As required by Title 49 of the CFR, Part 663 - Subpart B, _____ (the recipient) is satisfied that the buses to be purchased, _____ (number and description of buses) from _____ (the manufacturer), meet the requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The recipient or its appointed analyst _____ (the analyst - not the manufacturer or its agent), has reviewed documentation provided by the manufacturer, which lists (1) the proposed component and subcomponent parts of the buses identified by manufacturer, country of origin, and cost; and (2) the proposed location of the final assembly point for the buses, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

PRE-AWARD PURCHASER'S REQUIREMENTS CERTIFICATION

As required by Title 49 of the CFR, Part 663 - Subpart B, _____ (the recipient) certifies that the buses to be purchased, _____ (number and description of buses) from _____ (the manufacturer), are the same product described in the recipient's solicitation specification and that the proposed manufacturer is a responsible manufacturer with the capability to produce a bus that meets the specifications.

PRE-AWARD FMVSS COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 - Subpart D, _____ (the recipient) certifies that it received, at the pre-award stage, a copy of _____'s (the manufacturer) self-certification information stating that the buses, _____ (number and description of buses), will comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Part 571.

Date: _____

Signature: _____

Title: _____

PRE-AWARD CERTIFICATION FOR PROCUREMENT OF ROLLING STOCK (VENDOR)

PRE-AWARD AUDIT REQUIREMENTS

A recipient purchasing revenue service rolling stock with FTA funds must ensure that a pre-award audit under this part is complete before the recipient enters into a formal contract for the purchase of such rolling stock.

DESCRIPTION OF PRE-AWARD AUDIT

A pre-award audit under this part includes— (a) A Buy America certification; (b) A purchaser's requirements certification; and (c) Where appropriate, a manufacturer's Federal Motor Vehicle Safety certification information.

PRE-AWARD BUY AMERICA CERTIFICATION

For purposes of this part, a pre-award Buy America certification is a certification that the recipient keeps on file that:

- (a) There is a letter from FTA which grants a waiver to the rolling stock to be purchased from the Buy America requirements under section 165(b)(1), (b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or
- (b) The recipient is satisfied that the rolling stock to be purchased meets the requirements of section 165(a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or through an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists:
 - (1) The Component and subcomponent parts of the rolling stock that are produced in the United States is more than sixty percent (60%) of the cost of all components and subcomponents of the vehicle identified by the manufacturer; and
 - (2) The location of the final assembly must take place in the United States (49 CFR 661.11), including a description of the activities that will take place at the final assembly point and the cost of final assembly.

PRE-AWARD PURCHASERS REQUIREMENTS CERTIFICATION

For purposes of this part, a pre-award purchaser's requirements certification is a certification a recipient keeps on file that:

- (a) The rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and
- (b) The proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's specification set forth in the recipient's solicitation.

If buses or other rolling stock (including train control, communication, and traction power equipment) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder in accordance with the requirements in 49 CFR 661.13(b).

PRE-AWARD FMVSS COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 - Subpart D, the recipient certifies that it received, at the pre-award stage, a copy of the manufacturers self-certification information stating that the buses will comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Part 571.

Bidder or offeror Certificate of:

COMPLIANCE with Buy America and FMVSS Rolling Stock Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable regulations of 49 CFR 661.11.

Company _____

Name _____ Title _____

Signature _____ Date ___ / ___ / ___

Bidder or offeror Certificate of:

NON-COMPLIANCE with Buy America and FMVSS Rolling Stock Requirements

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

Company _____

Name _____ Title _____

Signature _____ Date ___ / ___ / ___

TRANSIT VEHICLE MANUFACTURER (TVM) CERTIFICATION

Pursuant to the provisions of Section 105(f) of the Surface Transportation Assistance Act of 1982, each bidder for this contract must certify that it has complied with the requirements of 49 CFR Part 26.49, regarding the participation of Disadvantaged Business Enterprises (DBE) in FTA assisted procurements of transit vehicles. Absent this certification, properly completed and signed, a bid shall be deemed non-responsive.

Certification:

I hereby certify, for the bidder named below, that it has complied with the provisions of 49 CFR Part 26.49 and that I am duly authorized by said bidder to make this certification.

BIDDER/COMPANY

Name of Bidder/Company _____

Signature of Representative _____

Type or Print Name _____

Title _____

Date ___/___/___

NOTARY

Type or Print Name _____

Signature of Notary _____

Place Notary SEAL Here:

EXHIBIT E

DOCUMENTATION COLLECTION CHECKLIST

Use this checklist to assure all necessary information has been submitted, including required signatures, titles, resolutions, and notarizations to allow for earliest possible approvals. During and at completion of bid process the following should be collected and retained

The Checklist below is intended to offer guidance through the collection process of a procurement to assure, as comprehensive as possible, strong file retention when utilizing federal funding, it does not constitute full compliance. State and local procurement guidelines may supersede federal practices and should be reviewed for further compliance requirements.

- Certified copies of advertisements for bid - This will provide proof of proper advertisement in a non-geographic preference nature.
- Copies of all solicitation related correspondence - Comprehensive collection of all correspondence such as original solicitation documents, questions received and responses sent; phone, email, and in person meeting minutes, etc.
- Copies of proposal of all bidders - Including required submission documents.
- Addenda Acknowledgment - Any addendums to the original solicitation should have an acknowledgment of receipt included in the proposal sent in.
- Required Federal Clauses and Federal Certifications - Based on solicitation method and type appropriate clauses and certifications must be attached with signatures as required.
- Certified itemized tabulations of solicitations - Documentation of process used.
- Copies of any required Pre-Award documents -Certification of compliance with any associated Federal Requirements such as Buy America, FMVSS, etc.
- Proposed Vendor contract - with associated boilerplate requirements.
- Other Solicitation Specification Requirements - Such as, Locations of Technical Service & Parts Representatives, Warranty Requirements, Performance Specifications, Pollution Control Requirements, Certificate of Eligibility, Certification of Fire Safety Practices, and Bid Bonds
- Executed Vendor contract - After approval of award.

THIS FORM IS INFORMATIONAL ONLY AND IS NOT TO BE CONSTRUED AS LEGAL ADVICE, NOR IS IT INCLUSIVE OF EVERY DETAIL THAT MAY BE INVOLVED IN THE HANDLING OF INDIVIDUAL PROCUREMENT MATTERS. IT IS RECOMMENDED THAT INDEPENDENT RESEARCH BE CONDUCTED AND ALL DOCUMENTATION CAREFULLY PROOFREAD IN EVERY PROCUREMENT MATTER.



ADDENDA ACKNOWLEDGMENT

Proposer: _____

Project Title: _____

Project ID: _____

Addendum No. _____, Date ___/___/___

Addendum No. _____, Date ___/___/___

Addendum No. _____, Date ___/___/___

Addendum No. _____, Date ___/___/___

Addendum No. _____, Date ___/___/___

Addendum No. _____, Date ___/___/___

Failure to acknowledge may cause the bid to be considered not responsive

I acknowledge receipt of all above listed addendums.

Print Name: _____

Signature: _____

Title: _____

Date: ___/___/___



PIGGYBACK CHECKLIST

Definition: Piggybacking is the post-award use of a contractual document/process that allows someone who was not contemplated in the original procurement to purchase the same supplies/equipment through that original document/process,

The Checklist below is intended to offer guidance through the collection process of a procurement to assure, as comprehensive as possible, strong file retention when utilizing federal funding, it does not constitute full compliance. State and local procurement guidelines may supersede federal practices and should be reviewed for further compliance requirements.

Original Bid Documentation Requirements

- Have you obtained a copy of the contract and the solicitation document, including the specifications and any Buy America Pre-award or Post delivery audits?
- Does the solicitation and contract contain an express "Assignability" clause that provides for the assignment of all or part of the specified deliverables?
- Did the Contractor submit the "certifications" required by Federal regulations? See BPPM Section 4.3.3.2.
- Does the contract contain the clauses required by Federal regulations? See BPPM Appendix A1.
- Were the piggybacking quantities included in the original solicitation; i.e., were they in the original bid and were they evaluated as part of the contract award decision?
- If this is an indefinite quantity contract, did the original solicitation and resultant contract contain both a minimum and maximum quantity, and did these represent the reasonably foreseeable needs of the parties to the contract?
- If this piggybacking action represents the exercise of an option in the contract, is the option provision still valid or has it expired?
- Does your State law allow for the procedures used by the original contracting agency: e.g., negotiations vs. sealed bids?
- Was a cost or price analysis performed by the original contracting agency documenting the reasonableness of the price? Obtain a copy for your files.
- Does the contract term comply with the five-year term limit established by FTA?
- Was there a proper evaluation of the bids or proposals? Include a copy of the analysis in your files.
- If you will require changes to the vehicles (deliverables), are they "within the scope" of the contract or are they "cardinal changes"? See BPPM Section 9.2.1.

Piggybacking Agency Documentation Requirements

- Option request letter.
- Option approval letter.
- New Municipal/vendor contract with State and federal clauses attached.
- Current price analysis.
- Buy America pre-award and post-delivery audits to ensure nothing has changed since the original procurement award.

Note: This document is based upon the policies and guidance expressed in (a) the FTA Administrator's "Dear Colleague" letter of October 1, 1998, (b) the Best Practices Procurement Manual, Section 6.3.3-Joint Procurements of Rolling Stock and "Piggybacking," and (c) FTA Circular 4220.1F.

Reference: November, 2009, http://www.fta.dot.gov/funding/thirdpartyprocurement/bppm/grants_financing_6210.html

REIMBURSEMENT CHECKLIST

After taking delivery of equipment and/or services, complete and submit this checklist along with any additional documentation as directed by the approving agency to apply for reimbursement of the Federal shares of the projects cost.

The Checklist below is intended to offer guidance through the collection process of a procurement to assure, as comprehensive as possible, strong file retention when utilizing federal funding, it does not constitute full compliance. State and local procurement guidelines may supersede federal practices and should be reviewed for further compliance requirements.

- Copy(s) of the final Invoice(S)

- Copy(s) of the cancelled check or other proof of payment.

- All required Certifications associated with purchase assuring compliance with federal regulations.

- Any required inventory sheets, status reports, and disposal documentation.

- Signed Third Party Agreements if necessary.

- Certification of acceptance of equipment and/or services was signed below.

Certification of acceptance: I certify, on behalf of the applicant, that the equipment and/or services associated with the attached invoice(s) has been performed and found acceptable to the specifications as requested.

Print Name: _____

Signature: _____

Title: _____

Date: ___/___/___



CONSTRUCTION CHECKLIST

The Checklist below is intended to offer guidance through the collection process of a Construction procurement to assure, as comprehensive as possible, strong file retention when utilizing federal funding, it does not constitute full compliance. State and local procurement guidelines may supersede federal practices and should be reviewed for further compliance requirements.

Project Information

Project Sponsor: _____

Project Title: _____

Project ID or PIN: _____ Recipient ID: _____

DUN'S NUMBER OR TAX ID: _____

FUNDING SOURCES(S): _____

PRIMARY SPONSOR CONTACT: _____

FTA CONTACT: _____

Project Description

Environmental Assessment Statement needs to include, at minimum, the following information:

- ✓ Land Use/Zoning Impact; submission of site plan, area zoning maps, neighborhood map,
- ✓ photos of current land to be used in neighboring properties
- ✓ Air Quality; provide the number of buses that will use and be stored inside the facility
- ✓ Noise Impact; will the level of noise emitted from the buses and/or shop equipment increase the noise level to the garage surroundings
- ✓ Water Quality
- ✓ Ecological Sensitive Areas
- ✓ Traffic Impacts
- ✓ Eminent Domain/Cultural Issues/Historic Preservation
- ✓ Construction Visual Impact
- ✓ Safety/Security issues during and after construction
- ✓ Programmatic Review & Federal mandates (i.e. compliance with ADA accessibility)

Checklist

1) PUBLIC SCOPING and/or FEASIBILITY STUDY

- Project Purpose and Need
- Independent Cost Estimate
- Establish Initial Project Proposal (IPP)
- Place on TIP/STIP
- Preferred site location and alternatives
- Land Acquisition
- Meets Zoning Code requirements
- Compatible Land Use Codes
- Preliminary Conceptual Design/Engineering Documents
- Appraisals and Review Appraisal
- Environmental Assessment:
- Set DBE Goals

2) APPLICATION PROCESS

- File application with FTA (if directly funded)
- Execute Federal Grant
- Submit RFP for design phase
- Review and approve RFP
- Award contract

3) DESIGN ACTIVITY

- Environmental work must be completed before final approval.
- Preliminary design Milestones ___/___/___
- 30 % complete Milestones ___/___/___
- 60 % complete Milestones ___/___/___
- 90 % complete Milestones ___/___/___
- Final Construction Documents Milestones ___/___/___
- Construction oversight, change orders, and payments.

4) CONSTRUCTION PHASE

- Send Construction Docs for FTA approval Sent on ___/___/___
- File application with FTA Filed on ___/___/___
- Execute Federal, State, and Other grants Executed on ___/___/___
- Submit Construction Documents Submitted on ___/___/___
- Review, and approve RFP Reviewed on ___/___/___
- Award contract Awarded on ___/___/___
- Pre-construction meetings
- Notice to proceed
- Construction oversight, change orders, and payments
- Completion of Project/Punch List
- Final Reimbursement
- Beneficial Occupancy Occupied on ___/___/___

CATEGORICAL EXCLUSION DETERMINATION CHECKLIST

Provide a response for each section, if it doesn't apply to your project, explain why. Provide letters and any other information in support of your response. The Checklist below is intended to offer guidance through the collection process in determining if a categorical exclusion may be attainable.

CHECKLIST:

- DETAILED PROJECT DESCRIPTION (include project purpose and need)
- PROJECT LOCATION (Attach a site map or diagram)
- AIR QUALITY CONFORMITY (What is the conformity status of that plan)
- ZONING (Description of zoning, consistency, and supporting documentation).
- TRAFFIC IMPACTS (Describe potential traffic impacts supported by traffic engineer's analysis)
- CO HOT SPOTS (Demonstrate that CO hot spots will not result).
- HISTORIC (Explain impact of cultural, historic, or archaeological resources).
- NOISE (If applicable, attach a "General Noise Assessment" with conclusions).
- VIBRATION (If applicable, attach a "General Vibration Assessment" with conclusions).
- LAND ACQUISITIONS & RELOCATIONS (Meets Uniform Relocation and real Properties Acquisition Policies Act).
- HAZARDOUS MATERIALS (Describe Phase I assessments performed and results).
- ENVIRONMENTAL JUSTICE (Provide a socio-economic profile).
- PUBLIC PARKLAND AND RECREATION AREAS (Show and describe affects if any).
- IMPACTS ON WETLANDS (Show and describe affects if any).
- FLOODPLAIN IMPACTS (If applicable, describe possible flood impacts).
- IMPACTS ON WATER QUALITY, WATERWAYS & COASTAL ZONES (Provide analysis of field investigation).
- IMPACTS ON ECOLOGICALLY AND ENDANGERED SPECIES (Provide analysis).
- SAFETY AND SECURITY (Describe the measures that assure safety and security).
- IMPACTS CAUSED BY CONSTRUCTION (Describe the construction plan and impacts).

The actions described below meets the criteria for a NEPA categorical exclusion (CE) in accordance with 23 CFR Part 771.117(d) For a more informative and detailed version of the CE Determination sections, please visit the FTA website at http://www.fta.dot.gov/documents/DCE_TEMPLATE.pdf

Instructions for Beta Testers : After Logging into ProcurementPRO, click on add project button to get to the start page. Then click on "Get Started" under ProcurementPRO, this will take you to "Step 1" below. Use the Beta Testing Checklist to cross reference the accuracy of the required and other guidance documentation the software produces. Do the same for "QuickPRO" to cross reference the accuracy of the required federal clauses and certifications produced.

Step 1:	Select the Procurement Type your project will fall under, then click next.
Step 2:	Enter Number of units and cost per unit, or the projected overall budget, then click next. Verify the threshold that is represented is accurate for a federal procurement and check off the appropriate threshold, then click next.
Step 3:	<p>Verify the method options available qualify based on the project value, select the method you wish to pursue, and click next. You will now begin review of documentation provided for accuracy based on entered criteria.</p> <p><u>Example - Federal Clauses</u> <i>The clear boxes that say "yes" are required clauses that should show up based on the a projects "Procurement Type" and "Procurement Cost". Shaded boxes are clauses that should not show up. Please check off any box that is incorrect to provide a record of needed corrections.</i></p> <p>Then do the same for Federal Certifications, Additional Checklists, and tabs, and at the completion click next.</p>
Step 4:	This is the Project Information section, it requires at minimum a project name be assigned before the page can be advanced. It is recommended you populate it in it's entirety to assure document accuracy occurs.
Step 5:	This is an accumulation page of all documentation as it will appear within its respective Tab. This is just a review section and also allows you to select what is to be printed (it defaults to "all will print").
Step 6:	This is a more comprehensive review of the finished entries. You can select from this window how you wish to save and or print the project.

You have now completed the ProcurementPRO and QuickPRO initial entry phases and should have a comprehensive list of procurement documents that are both required documentation, and articles intended to offer further guidance. Please run Beta Tests on all 5 "Procurement Types" across all three "Procurement Costs" so we may get a cross section of projects of varying type, cost, and method to use for review.

Procurement Scenario Form

Beta Tester

Name	
Location	
Agency Type	
Phone	
Email	

Beta Testing Definition:

Beta Testing is the final testing phase of this software product as it is intended to be viewed. It is performed by development staff and potential end-users for accuracy, understanding, and ease of use.

Testing Instructions:

On the following pages there are 5 procurement scenarios to carry out which are intended to gauge ProcurementPRO’s ease of use, accuracy of resulting documentation, and to make recommendations on product improvement, functionality and potentials errors. Your review will provide necessary feedback that will be considered for final revisions before product release. If you wish to perform additional scenarios on your own we have provided an “Extra Scenario” at the end for your use.

The scenarios are a cross section of 5 “Procurement Types” (categories under which a type of acquisition may fall, i.e. bus purchase, bus shelter purchase, hiring of consulting services, etc.) across three “Procurement Cost” thresholds (the estimated value that generates the need for quotes or a required competitive solicitation).

During your review you will utilize this “Procurement Scenario Form” and “Beta Testing Procedures Checklist”, provided separately, to document and verifies accuracy and functionality.

This “**Procurement Scenario Form**” gives you, on the following pages, your individual scenarios to perform and a notes section to document your thoughts, concerns, potential errors, and improvement suggestions for consideration.

The “**Beta Testing Procedures Checklist**” offers the ability to review the required Federal Clauses, Federal Certifications, Other Supporting Documentation, Reimbursement Checklist, and Procurement TABS the software should produce based on your entries. This checklist provides a detailed listing of all documentation contained within ProcurementPRO with an accompanying Yes/No checkbox. A “Yes” checkbox indicates the document should show up in your scenario, a “No” checkbox indicates the document should NOT show up. *(Please take notice during your review of “Foot Notes” on this checklist and their meaning to your individual scenarios).*

During your review, also take notes of the functionality of the **ProcurementPRO Software Interface**. The web based program offers useful tools such as: General page to page instructions, quick tips, help videos, useful links, frequently asked questions, rollover help and example files, and a live support help line. Please utilize these tools to their fullest so we may also gauge their usefulness.

Thank You and Good Luck;
National RTAP

SCENARIO

(You may perform as many scenarios as you wish utilizing this blank form)

Project Information

Project Name	
Test Project 1 as:	ProcurementPRO <i>(Run a complete 1st test)</i>
Test Project 2 as:	QuickPRO <i>(Run duplicate 2nd test, but only verify up to Clauses and Certifications)</i>
Procurement Type	
Procurement Cost	
Procurement Method	

Procurement Method <i>(Check all that show up)</i>	<i>IFB</i>	<i>RFP</i>	<i>RFQ</i>	<i>Sole Source</i>	<i>Piggyback</i>	<i>Quote</i>

ProcurementPRO

<i>Place an "X" in box</i>	<i>Correct</i>	<i>Incorrect</i>	<i>If Incorrect please elaborate, need more room use notes below.</i>
Federal Clauses			
Federal Certification			
Supporting Documentation			
Reimbursement Checklist			
Procurement Tabs			

QuickPRO

<i>Place an "X" in box</i>	<i>Correct</i>	<i>Incorrect</i>	<i>If Incorrect please elaborate, need more room use notes below.</i>
Federal Clauses <i>(QuickPRO)</i>			
Federal Certification <i>(QuickPRO)</i>			

Notes:

EXHIBIT H

USEFUL LINKS

ProcurementPRO will contain a ‘Useful Links’ section on the sidebar of the master website. Below are some of the suggested links it should contain, please feel free to make further suggestions.

FTA

<http://www.fta.dot.gov/>

FHWA

<http://www.fhwa.dot.gov/>

USDOT

<http://www.dot.gov/>

THIRD PARTY CONTRACTING GUIDANCE (4220.1F)

http://www.fta.dot.gov/laws/circulars/leg_reg_8641.html

CHARTER

<http://www.fta.dot.gov/charterregistration>

BPPM

http://www.fta.dot.gov/funding/thirdpartyprocurement/grants_financing_6037.html

HELPLINE

http://www.fta.dot.gov/funding/thirdpartyprocurement/grants_financing_6040.html

FAQ'S

http://www.fta.dot.gov/funding/thirdpartyprocurement/grants_financing_6039.html

MASTER AGREEMENT

<http://www.fta.dot.gov/documents/17-Master.pdf>

MASTER AGREEMENT CHANGES (2010-2011)

<http://fta.dot.gov/documents/17-Changes-Agreements.pdf>

DEBARMENT AND SUSPENSION (Excluded Parties List)

<https://www.epls.gov/>

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

<http://www.epa.gov/>

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

<http://www.epa.gov/compliance/nepa/>

US CENSUS BUREAU

<http://factfinder.census.gov>

NATIONAL REGISTER OF HISTORIC PLACES

<http://www.nps.gov/nr/>

HISTORIC PRESERVATION SECTION 106

<http://www.achp.gov/106summary.html>

