



**CHATHAM AREA TRANSIT AUTHORITY  
REQUEST FOR PROPOSALS**

**PROJECT NO. 2025-03**

**CAT RFP DEMAND RESPONSE ITS**

**November 1, 2024**

**PUBLIC NOTICE**  
**CHATHAM AREA TRANSIT AUTHORITY**

Request for Proposals No. 2025-03  
**CAT RFP DEMAND RESPONSE ITS**

Notice is hereby given that the CHATHAM AREA TRANSIT AUTHORITY (CAT) is seeking responses for the following:

- Description:** Chatham Area Transit Authority (CAT) is soliciting responses from qualified vendors to provide proposals for an ITS System for Demand Response Services
- Proposals:** Proposal Packages are available at 900 E. Gwinnett Street, Savannah, Georgia, 31401, online at <https://www.catchacat.org/about-cat/doing-business/procurement/procurement-opportunities/>, or by email at [victor.colon@catchacat.org](mailto:victor.colon@catchacat.org).
- Questions:** All questions must be submitted in writing by: **Thursday, January 02, 2025** to Victor Colon, Procurement Manager, Chatham Area Transit Authority, 900 East Gwinnett Street, Savannah, GA 31401, or by email at [victor.colon@catchacat.org](mailto:victor.colon@catchacat.org)
- Submittal Deadline:** **Friday, January 31, 2025 at 2 p.m. EST**, CAT Central, 900 E. Gwinnett Street, Savannah, Georgia, 31401

**Disadvantaged Business Enterprise (DBE) Requirements:**

CAT, in accordance with 49 Code of Federal Regulations (CFR) Part 26, has an obligation to ensure nondiscrimination of DBE's in all aspects of competition, award and administration of federally funded contracts. Notice to all proposers is hereby provided, that in accordance with State and Federal laws, CAT will ensure that disadvantaged business enterprises are afforded full opportunity to submit offers and responses to this solicitation, and to participate in any contract consummated pursuant to this advertisement. Compliance with Federal and State laws on Equal Opportunity will also be asserted in consideration for the award of this contract. No proposer will be discriminated against because of age, sex, race, color, religion, national origin, or handicapping conditions.

CAT reserves the right to accept or reject any and all responses submitted. CAT also reserves the right to award a contract based on the submissions alone.

## 2025-03 Schedule of Events

<u>EVENT</u>	<u>DATE</u>
RFP Issued and Advertised	November 1, 2024
Prebid Meeting	December 13, 2024
Vendor Inquiry Deadline	January 2, 2025
RFP Submission Deadline	January 31, 2025, 2:00 p.m. EST
Evaluation Committee's Recommendation To Board of Directors	February 25, 2025
Notification of Award to Proposer	February 25, 2025

**Chatham Area Transit Authority  
RFP 2025-03 CAT Demand Response ITS**

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**CHATHAM AREA TRANSIT AUTHORITY  
REQUEST FOR PROPOSALS**

**1.1 INTRODUCTION**

Chatham Area Transit Authority (CAT) is soliciting proposals from qualified professionals to provide Demand Response ITS Systems . CAT anticipates awarding a five (5) year contract to the selected vendor(s).

**1.2 RESPONSE SUBMISSION**

CAT will receive responses until **2 pm EST, Friday, January 31, 2025**. Any response delivered to CAT after the time specified will not be considered.

One (1) unbound original, three (3) copies, and an electronic copy of the response must be mailed or hand delivered to:

Victor Colon, Procurement Manager  
Chatham Area Transit Authority  
900 E. Gwinnett St.  
Savannah, GA 31401  
(912) 651-0453

If there are inconsistencies in the copies provided, the controlling document will be the original response submitted by proposer.

**1.3 RESPONSE FORM REQUIREMENTS**

All responses must state the full and correct name, address, and capacity of the proposer. If the proposer is an individual doing business under another name, the response shall so state. Partnerships, joint ventures, and corporations shall sign as is appropriate for their type of business. Any erasures, corrections, or other changes appearing on the response forms must be initialed by the persons signing the response.

**Except as otherwise provided herein, CAT cannot accept any material marked confidential, trade secret or proprietary.** Proposer understands that any material pertaining to this procurement is likely subject to disclosure through the Georgia Open Records Act, O.C.G.A. § 50-18-70.

**1.4 INQUIRIES**

Should a proposer have questions, please contact in writing:

Victor Colon, Procurement Manager  
Chatham Area Transit Authority  
900 E. Gwinnett St.  
Savannah, GA 31401  
(912) 651-0453  
[victor.colon@catchacat.org](mailto:victor.colon@catchacat.org)

Questions should be submitted to CAT by **Thursday, January 02, 2025**. Communication via email will be considered a written inquiry. **ANY VERBAL COMMUNICATION WILL NOT BE CONSIDERED BY CAT AS AN INQUIRY**. All received inquiries will be responded to in writing after the question submission deadline and will be presented as an addendum to the solicitation and distributed to respondents.

### **1.5 ETHICS AND LOBBYING STATEMENT**

CAT maintains a written code of ethics that governs the conduct of its employees and subcontractors. Any debarment and suspension pertaining to the proposer must be disclosed by attaching a copy of each to the response. Additionally, the successful proposer must complete the appropriate certifications relating to lobbying activities.

### **1.6 INDEMNIFICATION**

(1) Contractor shall indemnify, defend, and hold harmless CAT and its officers, directors, and employees from and against all allegations, claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation attorneys' fees and costs) which arise out of, relate to, or result from any act or omission of Contractor.

(2) Contractor acknowledges that it is prohibited under the Laws of Georgia for a governmental entity to indemnify Contractor for any loss arising out of the provisions of this Contract. Accordingly, CAT does not make any indemnification to Contractor whatsoever under this Contract.

### **1.7 INTEREST OF MEMBERS OF, OR DELEGATES TO, CONGRESS**

In accordance with 18 U.S.C. Subsection 431, no member of, or delegates to, the Congress of the United States shall be permitted to a share or part of this contract or to any benefit arising there from.

### **1.8 ETHICS**

It is CAT's policy that all contractors shall be expected to have complied, and in the future to comply, with all ethics laws of the State of Georgia and to be free of conflicts of interest (as described in the following section) if awarded a CAT contract. Each proposer shall be deemed have acknowledged said policy. Any indication that a proposer has violated or given the appearance of violating an ethics law or is not free of actual or potential conflicts of interest will cause rejection of that bid. Any indication that, once awarded a contract, a contractor has violated or has given the appearance of violating an ethics law or is not free of actual or potential conflicts of interest may, in the sole discretion of CAT, constitutes grounds for termination of the contract.

### **1.9 CONFLICT OF INTEREST**

No Board Member, employee, officer or agent, or employee of such agent of CAT shall participate in the selection, the award of, or the administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. A Board Member, employee, officer or agent, or employee of such agent;

- b. Any immediate family member of those listed in (a) above;
- c. A partner; or an organization which employs, or is about to employ any of the above,

has a direct or indirect, present or future financial or other interest in the firm selected for award.

CAT Board Members, officer, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential subcontractors or parties of sub-agreements.

### **1.10 PRIVACY ACT REQUIREMENTS**

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

- a. 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 understand 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.
- b. 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.

### **1.11 EXCLUSIONARY OR DISCRIMINATORY SPECIFICATIONS**

Apart from inconsistent requirements imposed by federal statute or regulations, CAT will comply with the requirements of 49 U.S.C. § 5323(h) (2) by refraining from using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

### **1.12 GEOGRAPHIC RESTRICTIONS**

Except as expressly mandated, encouraged, or permitted by FTA or Federal Statute, CAT will refrain from using state or local geographic preferences.

### **1.13 CONTRACTOR ASSURANCE**

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible

#### **1.14 CONFIDENTIALITY**

Contractor agrees that any and all information, in oral or written form, whether obtained from CAT, its agents or assigns, or other sources, or generated by Contractor pursuant to this contract shall not be used for any purpose other than fulfilling the requirements of this contract.

Contractor further agrees to keep in absolute confidence all data relative to the business of CAT, its agents or assigns. No news release, including but not limited to photographs and film, public announcement, denial or confirmation of any part of the subject matter of any phase of any program hereunder shall be made by Contractor without written approval of CAT.

#### **1.15 GOVERNMENT WIDE DEBARMENT AND SUSPENSION**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the 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. If this contract is less than \$25,000 this clause does not apply.

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 response, the bidder or proposer certifies as follows:

The certification clause contained in Attachment B is a material representation of fact relied upon by Chatham Area Transit Authority. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Chatham Area Transit Authority, 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.

#### **1.16 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 FTA 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 compliance by any subcontractor or lower tier subcontractor with all the clauses contained in 29 CFR 5.5.

#### **1.17 CONTRACT TERMINATION: DEBARMENT**

A breach of the contract clauses in 29 CFR Section 5.5 may be grounds for termination on contract, and for Debarment as a contractor and a subcontractor as provided in 29 CFR Section 5.12.

#### **1.18 STATE AND LOCAL LAW DISCLAIMER**

The use of many of the Clauses herein are not governed by federal law, many of the clauses contained herein contain FTA suggested language in certain instances these clauses may be affected by State Law.

- a. If contractor is to physically perform services on CAT's premises, contractor will be required to affirmatively represent it's use of the federal work authorization program commonly known as E-Verify as required by O.C.G.A. §13-10-91(b)(1).

### **1.19 SUBMITTAL OF PROTESTS**

- a. Pre-Award Protests

Protests concerning these instructions, contract requirements, or the RFP procedures must be submitted in writing to the Procurement Manager not less than five (5) days before the scheduled receipt of responses. The protest must:

- 1) The name and address of the protestor.
- 2) The name and number of the procurement solicitation.
- 3) A detailed statement of the grounds for the protest, including all relevant facts and a citation to the Federal or State law, the provision of CAT procurement procedures, or specific term of the solicitation alleged to have been violated.
- 4) Any relevant supporting documentation the protesting party desires CAT to consider in making its decision.
- 5) The desired relief, action, or ruling sought by the protestor.

- b. Post-Award Protests

Protests concerning the award of this response must be submitted in writing to the Procurement Manager within no later than 72 hours after the protestor's receipt of CAT's written notice of its decision or intended decision to award a contract. CAT will have ten (10) working days after receipt of the formal protest package to evaluate, and issue a response, except in cases where the original response has been awarded by the Board of Directors. In such cases, the resolution of protest will be handled at the next regularly scheduled Board meeting, following completion of the staff review of the protest. The protest must:

- 1) The name and address of the protestor.
- 2) The name and number of the procurement solicitation.
- 3) A detailed statement of the grounds for the protest, including all relevant facts and a citation to the Federal or State law, the provision of CAT procurement procedures, or specific term of the solicitation alleged to have been violated.
- 4) Any relevant supporting documentation the protesting party desires CAT to consider in making its decision.
- 5) The desired relief, action, or ruling sought by the protestor.

### **1.20 RESPONSE OFFER**

Each response must be in CAT's possession by the deadline for submission noted above. It is the proposer's responsibility to ensure timely receipt by CAT of the response. The submitted response shall irrevocable offer for ninety (90) days from the solicitation due date.

### **1.21 RESPONSE AWARD**

CAT reserves the right to reject any and all responses, and part or parts of a response, waive any -technicalities, and award any or the entire contract in a manner that is in the best interest of CAT. Contracts will be awarded to the highest ranked proposer when it is in the best interest of CAT.

### **1.22 RESPONSE WITHDRAWAL**

Responses may be withdrawn by submitting a written request to CAT before the time fixed for response opening. Withdrawal of an offer will not prejudice the right of the proposer to submit a new response, provided that the latter is timely received as provided above.

### **1.23 SINGLE RESPONSE SITUATIONS**

In the event a single response is received, CAT will conduct a price analysis or a cost analysis of the response. The sole proposer must cooperate with CAT if a price or cost analysis is conducted.

### **1.24 CERTIFICATIONS & DBE POLICY STATEMENT**

CAT reserves the right to accept or reject any and all responses submitted. CAT also reserves the right to award a contract based on the submissions alone. The proposer, by signing the response forms, certifies that the response is offered by a business that is fully licensed to do the work relating to the specifications herein.

CAT, in accordance with 49 Code of Federal Regulations (CFR) Part 26, has an obligation to ensure nondiscrimination of DBE's in all aspects of competition, award and administration of federally funded contracts. Notice to all proposers is hereby provided, that in accordance with State and Federal laws, CAT will ensure that disadvantaged business enterprises are afforded full opportunity to submit offers and responses to this solicitation, and to participate in any contract consummated pursuant to this advertisement. Compliance with Federal and State laws on Equal Opportunity will also be asserted in consideration for the award of this contract. No proposer will be discriminated against because of age, sex, race, color, religion, national origin, or handicapping conditions.

**CAT encourages the utilization of minority owned financial institutions, a list is provided below:**

- Carver State Bank (Savannah);
- Citizens Trust Bank (Atlanta);
- Metro City Bank (Doraville);
- Quantum National Bank (Suwanee).

### **1.25 TAXES**

CAT is exempt from payment of federal excise and transportation tax and Georgia Sales and Use taxes. These taxes are not to be included in the response price. Tax exemption information, upon request, will be provided to the successful proposer upon award of the contract.

## **1.26 CONTRACT TERMINATION**

CAT may terminate this solicitation and any corresponding contract, in whole or in part, at any time by written notice to the Contractor when it is in CAT's best interest.

## **1.27 ASSIGNMENTS**

The proposer shall not assign this contract, wholly or in part, without the prior written consent of CAT. No assignment shall relieve the contractor of any obligations under the contract.

## **1.28 ADDENDA**

Any changes in these instructions or other requirements will be accomplished by a written addendum sent to all prospective proposers. All such addenda shall become a part of the contract. Failure to acknowledge receipt of all addenda may cause the response to be considered non-responsive, and therefore rejected.

## **1.29 PROHIBITED INTERESTS**

No member, officer, or employee of CAT and/or member of, delegate to, the Congress of the United States shall, during his/her tenure, or for one year thereafter, have either a direct or an indirect interest in this contract or the proceeds thereof.

## **1.30 AUDIT & INSPECTION**

The proposer agrees to allow CAT, the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination:

- 1.31.1 Inspect all work, materials, payrolls, and other data/records associated with the project; and
- 1.31.2 Audit the books, records, and accounts associated with the project.
- 1.31.3 In addition, the contractor must also agree to maintain all required records for a minimum of three (3) years after CAT makes final payments and all other pending matters are closed.

## **1.31 NOTICE TO PROCEED**

The successful proposer shall not commence work under this Request for Proposals until a written contract is awarded, proof of insurance has been received, and a Notice to Proceed is issued. If the successful proposer does commence any work or deliver items prior to receiving official notification, the proposer does so at its own risk.

## **1.32 SCOPE OF SERVICES**

The proposer shall provide a solution to the scope of the request described in detail in Attachment A – Scope of Services.

In the case of goods, equipment, or services identified by a “brand name or equal” description, no preference will be given to responses offering to furnish the name brands over those offering accepted equal value and quality, and vice versa. Wherever in the specifications the name of a certain brand, make, manufacturer, or definite specification is utilized, these specifications are used only to denote the quality standard of product, style type, and character of product desired and do not restrict proposers to the specific brand, make, manufacturer or specification named.

Equivalent products, which have been designated "approved equals" by CAT or its agents, shall be acceptable. Proposer must submit to CAT a written request for approval of all equivalent products by the inquiry deadline.

### **1.33 EVALUATION OF RESPONSES**

Responses received that are determined to be responsive and responsible will be evaluated by members of a CAT Evaluation Committee in accordance with the criteria set forth below. The criteria are weighted by their relative degree of importance.

#### **Evaluation Criteria:**

- **Professional Qualifications and specialized experience in ITS Systems for Demand Response Services 30%.**
- **Past Performance, including quality of work and experience with transit agencies: 20%.**
- **Capacity to meet CAT’s service requirements: 10%.**
- **Disadvantage business enterprise (DBE) participation: 10%**
- **Price Proposal: 30%**

*For any DBE subcontractor use, please provide a summary of the percentage of use that you are committing to the DBE contractor in your price proposal*

### **1.34 FEDERAL REGULATORY REQUIREMENTS**

Federal Regulatory Requirements applicable to this request are listed in Attachment G. Proposer must sign the individual clauses that require separate signatures as well as sign the certification at the beginning of Attachment G. Proposer must return these signed federal clauses with its response.

### **1.35 ADDITIONAL RESPONSE REQUIREMENTS**

Any response delivered to CAT that does not contain the following documents and/or information will be considered an unresponsive submission.

- 1.35.1 Most recent three (3) years comprehensive financial statements, audited version if your business structure requires such. These documents may be marked as “Trade Secret – Confidential Financial Data”, but must be accompanied by an attached affidavit affirmatively declaring that the specific information in the records constitute trade secrets pursuant to Article 2 of Chapter 1 of Title 10, Official Code of Georgia.
- 1.35.2 Statement regarding the staffing availability of your business to handle the scope of services in this solicitation.

- 1.35.3 Evidence of current Commercial General/Professional Liability insurance providing insurance for bodily injury, property damage, personal injury and advertising injury, with limits of not less than \$1,000,000.
- 1.35.4 Complete, sign, and return the pertinent portions of Attachments B – G.

## Attachment A

### SCOPE OF SERVICE

#### Chatham Area Transit Authority (CAT) Paratransit Software Replacement for CAT Mobility

##### 1. Background

Chatham Area Transit Authority ("CAT" or "Authority") provides public transportation services in the Greater Savannah and Chatham County area of Georgia, including fixed-route bus services, paratransit, and ferry operations. CAT operates from its central garage at 900 E Gwinnett Street, Savannah, Georgia, with active plans to construct a new facility for paratransit and micro transit maintenance and operations.

CAT Mobility is the Authority's paratransit service designed for individuals with disabilities, compliant with the Americans with Disabilities Act (ADA) of 1990. The service is intended for those who cannot use the fixed-route system due to permanent or temporary physical or mental disabilities. The fleet is equipped with state-of-the-art wheelchair lifts, security systems, and door-to-door service by trained operators.

CAT currently utilizes Route Match software for scheduling, routing, and dispatching CAT Mobility services. CAT seeks to replace this software with a more efficient, integrated, and user-friendly solution that supports modern paratransit operations, integrates with existing hardware, and enhances the passenger experience.

Our current service averages 350-400 trips per day with historic numbers up to 500 per day. These trips are currently scheduled between 4:30am and 10:30pm.

##### 2. Existing Fleet Overview

CAT Mobility operates a fleet of 43 paratransit vans with the following makes and models:

11 - 2023 Ford E Transit (electric)

15 - 2023 Ford Transit 350

17 - 2018 Glaval Titan II

##### 3. Goals and Objectives

CAT seeks to procure new software that will:

- Improve operational efficiency for scheduling, routing, and dispatching services.
- Enhance the passenger experience with real-time communication and ride request options.

- **Provide robust reporting and analytics for performance metrics, including on-time performance and ridership as well as all required NTD stats.**
- **Solution that will grow with the business without need to change products or services.**

#### **4. Key Features and Capabilities**

**The new system should provide the following key features and functionalities:**

- **System should be SaaS (software as a solution)**
- **Ride booking and scheduling (real-time as well as a reservation for specific dates and times). The rider-facing app shall allow a user to book several trips up to 7 days ahead of time.**
- **Realtime Vehicle location and routing to include adjustments on route to improve system performance.**
- **Load times based on different criteria to include wheelchair, eligible riders, guests, Personal Care Attendants, building type etc.**
- **Options for making the manifest available to staff based on assignments and time periods for viewing of manifest (as little as 1 hr. at a time)**
- **Able to modify and cancel scheduled rides by the customer and staff (system locked after CERTAIN TIME)**
- **Use GPS technologies that incorporate traffic conditions and time delays into ETA calculations**
- **Multiple ways to automatically communicate directly with customers for pickups via phone calls, text messages or other means determined by customer preferences.**
- **Ability to set rules for communications to passengers to better inform status of rides and ETA to pick up.**
- **Systematic notification of expiration of rider certification. 30–60-day notification to business**

**(Eligibility Coordinator) and customer (rider).**

- **Provide automated notifications (via phone call, text message, or app notifications) to alert passengers of vehicle arrival times, trip reminders, or service disruptions.**

- **Enable two-way communication between passengers and dispatch in case of ride changes or emergencies.**
- **Automated messages should be configurable**
- **Hosting Services**

#### **4.1. Integration**

- **Utilize CAT's existing unlimited cellular connections for data transmission between vehicles and central dispatch.**

#### **4.2. Mobility and Online Ride Request**

- **Verify request from existing eligible paratransit customers only**
- **Ability to verify eligibility from internal dispatch.**
- **Allow passengers to request rides via call into scheduler, online portal, and/or mobile app, making it easier for eligible riders to schedule trips, facilitating login in the system as riders**
- **Ensure ride request functionality is ADA and WCAG (Level AA) – compliant and accessible for all users.**
- **Electronic ticketing systems or connectivity to token transit.**

#### **4.3. Fare Collection and Validation**

- **Enable fare collection via multiple methods (e.g., cash, contactless payments, or mobile app).**
- **Implement a fare validation system that integrates with the scheduling system to ensure accurate payment tracking.**

#### **4.4. Reporting and Analytics**

- **Generate detailed reports for on-time performance, ridership statistics, vehicle usage, and driver performance.**

- **Provide customizable reports for internal and external reporting needs, including federal reporting requirements.**
- **Post activity changes to show Prescheduled vs Actual by day to show changes made and results of those changes.**
- **Ability to capture no-shows and all other cancellations**
- **Ability to track additions and deletions to database of customers to report on for overall customer numbers**
- **Onboarding and offboarding codes for granular tracking of data by type.**
- **FTA Reports Configuration (S-10)**

## **5. Additional Requirements**

### **5.1. Hardware Requirements**

- **New hardware must be a part of the proposal, including new tablets, in-vehicle equipment, Mobile Device Management (MDM) or peripheral devices.**
- **All vehicle mounting devices must be included as well.**

### **5.2. System Security**

- **Ensure the system adheres to the latest cybersecurity protocols, protecting passenger data and operational integrity.**

### **5.3. Customer Support and Training**

- **Provide comprehensive training for CAT staff on system operation, including dispatchers, schedulers, and drivers.**
- **Training for Electronics staff to support hardware and mounting devices.**
- **Offer ongoing customer support with a clear Service Level Agreement (SLA) outlining response times for system issues and maintenance.**

**Attachment B**  
**DBE, Non-Debarment, and EPA Certification**

The firm submitting this response \_\_\_\_\_ IS or \_\_\_\_\_ IS NOT a Disadvantaged Business Enterprise.

The firm submitting this response \_\_\_\_\_ DOES or \_\_\_\_\_ DOES NOT use Disadvantaged Business Enterprise subcontractors.

***For any DBE subcontractor use, please provide a summary of the percentage of use that you are committing to the DBE subcontractor in your price proposal.***

All offerors must certify that they are not on the Comptroller General's list or any DOT List of Ineligible Proposers, List of Persons or Firms Currently Debarred for Violations of Various Contracts Incorporating Labor Standards Provisions, or that the facilities to be utilized in the performance of this project have not been listed on the Environmental Protection Agency's List of Violating Facilities. By signing the Certification Form, this certification is completed.

The signature below attests that the offeror's response is made with full understanding and acceptance of the provisions contained in this response.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness Signature

Print or Type:

\_\_\_\_\_  
***Name & Title of Signing Officer***

\_\_\_\_\_  
***Company***

\_\_\_\_\_  
***Mailing Address***

\_\_\_\_\_  
***Date***

\_\_\_\_\_  
***City, State, Zip***

\_\_\_\_\_  
***Telephone***

\_\_\_\_\_  
***E-Mail Address***

**Attachment C  
References**

CAT may contact references in an effort to obtain more information about the proposer. The references listed should be companies and individuals with whom the proposer has supplied equipment and/or performed services similar to those specified herein.

1.           Company Name: \_\_\_\_\_  
  
              Contact Name: \_\_\_\_\_  
  
              Phone Number: \_\_\_\_\_  
  
              Description of Work: \_\_\_\_\_

---

2.           Company Name: \_\_\_\_\_  
  
              Contact Name: \_\_\_\_\_  
  
              Phone Number: \_\_\_\_\_  
  
              Description of Work: \_\_\_\_\_

---

3.           Company Name: \_\_\_\_\_  
  
              Contact Name: \_\_\_\_\_  
  
              Phone Number: \_\_\_\_\_  
  
              Description of Work: \_\_\_\_\_

**Attachment D**  
**Addendum Acknowledgment**

The undersigned acknowledges receipt of the following addenda to the response documents.

***NO ADDENDA WERE RECEIVED*** \_\_\_\_\_

(Give number and date of each):

Addendum No.   1   Dated \_\_\_\_\_

Addendum No.   2   Dated \_\_\_\_\_

Addendum No.   3   Dated \_\_\_\_\_

Addendum No.   4   Dated \_\_\_\_\_

Addendum No.   5   Dated \_\_\_\_\_

Failure to acknowledge receipt of all addenda may cause the response to be considered non-responsive.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**Attachment E**  
**OFFEROR’S CHECKLIST**  
 (To verify that all necessary documents are included)

This form **must be completed** and returned with the response. Failure to return the completed form may be cause for considering your response non-responsive.

*Responses must be clearly marked with the response number and title, date and time of response opening, and company name. Below is a list of all materials and responses required for this response.*

	<u>Proposer</u> <u>Check off</u>	<u>CAT</u> <u>Check off</u>
Proposer Contact Information	_____	_____
Financial Statement/Tax Return	_____	_____
Evidence of Gen. Liability Insurance	_____	_____
Attachment B – DBE Certification Form	_____	_____
Attachment C – Proposer’s References	_____	_____
Attachment D – Addendum Acknowledgment	_____	_____
Attachment E – Offeror’s Checklist	_____	_____
Attachment F – Proposer Information Form	_____	_____
Attachment G – Federal Clause Certification	_____	_____
<b>Buy America Certification</b>	_____	_____
<b>Lobbying Certification</b>	_____	_____

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**Attachment F**  
**PROPOSER INFORMATION FORM**

**All offerors are required to submit this information as a condition of submitting an offer to CAT. Offerors must insure that ALL sub-contractors at all tiers, which are proposed to be used under any agreement issued by CAT, have also submitted an executed copy of this form. CAT is required to maintain this information by the Federal Transit Administration and it is not subject to waiver.**

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

Firm Address \_\_\_\_\_  
\_\_\_\_\_

Telephone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

DUNS Number \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Firm's status as Disadvantaged Business Enterprise  
(DBE) or Non- DBE \_\_\_\_\_

Ethnicity of DBE Principle: \_\_\_\_\_

Gender of DBE Principle: \_\_\_\_\_

Year Firm Founded \_\_\_\_\_

Annual gross receipts of the firm:

\_\_\_ < \$500K; \_\_\_ \$500K - \$1 million; \_\_\_ \$1-2 million; \_\_\_ \$2-5 million; \_\_\_ > \$5 million

Prime or Sub-Contractor \_\_\_\_\_

NAICS code(s) \_\_\_\_\_

I certify to the best of my knowledge that the above information is true and correct:

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

Name & Title: \_\_\_\_\_

Date: \_\_\_\_\_

CAT Project No.: \_\_\_\_\_

**FAILURE TO PROVIDE A COMPLETED COPY OF THIS FORM AS STIPULATED  
HEREIN MAY PRECLUDE YOUR OFFER FROM CONSIDERATION FOR AWARD.**

**Attachment G  
Federal Regulatory Requirements**

**CONTRACTOR MUST REVIEW THESE REQUIREMENTS, SIGN THE  
CERTIFICATION & APPLICABLE FEDERAL REGULATIONS, AND SUBMIT THIS  
SECTION AS PART OF THE RESPONSE.**

**FEDERAL CLAUSE CERTIFICATION**

I have read and understand the federal clauses that are applicable to this solicitation and I am duly authorized to execute this Certification on behalf of the entity submitting this response.

\_\_\_\_\_  
Proposer Name

By Its: \_\_\_\_\_  
Title

\_\_\_\_\_  
Sign Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

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

Signed and sworn to before me on \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_ the \_\_\_\_\_ of Contractor and  
duly authorized to execute this instrument on Contractor's behalf.

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

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

## ACCESS TO RECORDS AND REPORTS

1. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records. (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must 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 the bid, execute such contractual documents as may be required within the time specified.

2. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

3. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information, including such records and information the contractor or its subcontractors may regard as confidential or proprietary, related to performance of this contract in accordance with 2 CFR § 200.337.

4. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

## AMERICANS WITH DISABILITIES ACT(ADA)

The contractor agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

## CHARTER SERVICE

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that Recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: 1. Federal transit laws, specifically 49 U.S.C. § 5323(d); 2. FTA regulations, "Charter Service," 49 C.F.R. part 604; 3. Any other federal Charter Service regulations; or 4. Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: 1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; 2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or 3. Any other appropriate remedy that may apply. The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

## CHANGES TO FEDERAL REQUIREMENTS

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and

Applicable changes to those federal requirements will apply to each Third Party Agreement and parties thereto at any tier.

## CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts.

The Contractor and any subcontractor agree to comply with all the requirements prohibiting discrimination on the basis of race, color, or national origin of the Title VI of the Civil Rights Action of 1964, as amended 52 U.S.C 2000d, and U.S. DOT regulation "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of the Title VI of the Civil rights Act, "49 C.F. R. Part 21 and any implementing requirement FTA may issue.

**1 Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to:

a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.

b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

**2 Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

**3 Nondiscrimination on the Basis of Age.** The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

**4 Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

#### **Civil Rights and Equal Opportunity**

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

**1. Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

**2. Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**3. Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**4. Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**5. Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

## **CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

#### Clean Air Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

#### Federal Water Pollution Control Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA."

## **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

### Compliance with the Contract Work Hours and Safety Standards Act.

- (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 forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (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 forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the 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 and 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 paragraph (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

## **DEBARMENT AND SUSPENSION**

Debarment and Suspension (Executive Orders 12549 and 12689). A covered transaction (see 2 C.F.R. §§ 180.220 and 1200.220) must not be entered into with any party listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (31 U.S.C. § 6101 note, 51 Fed. Reg. 6370,) and 12689 (31 U.S.C. § 6101 note, 54 Fed. Reg. 34131), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Recipient agrees to include, and require each Third Party Participant to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

- (1) Complies with federal debarment and suspension requirements; and
- (2) Reviews the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200.

## **DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

*(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)*

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Agency deems appropriate, which may include, but is not limited to:

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

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

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

## **ENERGY CONSERVATION**

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6201).

## **EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **FLY AMERICA**

a) Definitions. As used in this clause—

1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. 2) "United States" means the 50 States, the District of Columbia, and outlying areas. 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

### Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

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

The provisions within include, in part, certain Standard Terms and Conditions required under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, detailed in 2 CFR § 200 or as amended by 2 CFR § 1201, or the most recent version of FTA Circular 4220.1 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

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

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

## **NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF INFORMATION RELATED TO FRAUD, WASTE, ABUSE, OR OTHER LEGAL MATTERS**

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

(1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

(2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

(3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

## **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

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

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

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

## **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.**

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

- 1) Procure or obtain covered telecommunications equipment or services;
- 2) Extend or renew a contract to procure or obtain covered telecommunications equipment or services; or
- 3) Enter into a contract (or extend or renew a contract) to procure or obtain covered telecommunications equipment or services.

(b) As described in section 889 of Public Law 115-232, "covered telecommunications equipment or services" means any of the following:

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- (2) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (3) Telecommunications or video surveillance services provided by such entities or using such equipment;
- (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country;

(c) For the purposes of this section, "covered telecommunications equipment or services" also include systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

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

(e) When the recipient or subrecipient accepts a loan or grant, it is certifying that it will comply with the prohibition on covered telecommunications equipment and services in this section. The recipient or subrecipient is not required to certify that funds will not be expended on covered telecommunications equipment or services beyond the certification provided upon accepting the loan or grant and those provided upon submitting payment requests and financial reports.

(f) For additional information, see section 889 of Public Law 115-232 and 200.471.

## **PROMPT PAYMENT**

*(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)*

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. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

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

## **PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS**

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1.U.S. DOL Certification. Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.

2.Special Warranty. When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.

3.Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

## **RESTRICTIONS ON LOBBYING**

### **Conditions on use of funds.**

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: 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.

(b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a

disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

(d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

(e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

#### **Certification and disclosure.**

(a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:

- (1) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or
- (2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

- (1) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or
- (2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000,

#### **Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.**

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:

- (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
- (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
- (3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:

- (1) A subcontract exceeding \$100,000 at any tier under a Federal contract;
- (2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;
- (3) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or,
- (4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement,

#### **Shall file a certification, and a disclosure form, if required, to the next tier above.**

(e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.

(f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.

(g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989 effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.

(h) No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart B or C.

## **SAFE OPERATION OF MOTOR VEHICLES**

### **Seat Belt Use**

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

### **Distracted Driving**

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

## **SCHOOL BUS OPERATIONS**

The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, "School Bus Operations," 49 C.F.R. part 605
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

## **SIMPLIFIED ACQUISITION THRESHOLD**

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America's eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).

## **SOLID WASTES (RECOVERED MATERIALS)**

(a) A Recipient or subrecipient that is a State agency or agency of a political subdivision of a State and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962. The requirements of Section 6002 include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(b) The recipient or subrecipient should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products. See Executive Order 14057, section 101, Policy.

## **SPECIAL NOTIFICATION REQUIREMENTS FOR STATES**

Applies to States –

a. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:

- (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
- (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
- (3) The amount of federal assistance FTA has provided for a State Program or Project.

b. Documents - The State agrees to provide the information required under this provision in the following documents:

- (1) applications for federal assistance,
- (2) requests for proposals or solicitations,
- (3) forms,
- (4) notifications,
- (5) press releases,
- (6) other publications.

## **SUBSTANCE ABUSE REQUIREMENTS**

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or Agency, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to the Agency.

## **TERMINATION**

### **Termination for Convenience (General Provision)**

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

#### Termination for Default [Breach or Cause] (General Provision)

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

#### Opportunity to Cure (General Provision)

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

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

#### Waiver of Remedies for any Breach

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

#### Termination for Convenience (Professional or Transit Service Contracts)

The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

#### Termination for Default (Supplies and Service)

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

#### Termination for Default (Transportation Services)

If the 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 the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will 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 the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

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

#### Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency 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. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. 3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

#### Termination for Convenience or Default (Architect and Engineering)

The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency.

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

#### Termination for Convenience or Default (Cost-Type Contracts)

The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, the 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 Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

## **VIOLATION AND BREACH OF CONTRACT**

#### **Disputes:**

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the agencies authorized representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the agencies authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

#### **Performance during Dispute:**

Unless otherwise directed by the agencies authorized representative, 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 a reasonable time 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 agencies authorized representative 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 State in which the Agency is located.

#### **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 Agency 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.

## **OTHER RECOMMENDED CONTRACT REQUIREMENTS**

### **CONFORMANCE WITH ITS NATIONAL ARCHITECTURE**

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

### **FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS**

(1) The contractor certifies that it:

(a) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(b) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

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

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

### **SEVERABILITY**

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

### **TRAFFICKING IN PERSONS**

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

(a) Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;

(b) Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or

(c) Use forced labor in the performance of the Recipient's Award or subagreements thereunder.

# Federal Certifications

## 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. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.,

Name of Bidder/Company Name: \_\_\_\_\_

Type or print name: \_\_\_\_\_

Signature of authorized representative: \_\_\_\_\_ Date \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**GOVERNMENT-WIDE DEBARMENT AND SUSPENSION  
(NONPROCUREMENT)**

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Recipients, contractors, and subcontractors that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions; (b) collecting a certification from that person (found below); or (c) adding a clause or condition to the contract or subcontract.

**Instructions for Certification:** Signing below indicates the prospective lower tier participant is providing the signed certification.

(1) It will comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR part 180,

(2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:

a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:

1. Debarred,
2. Suspended,
3. Proposed for debarment,
4. Declared ineligible,
5. Voluntarily excluded, or
6. Disqualified

b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:

1. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
2. Violation of any Federal or State antitrust statute, or,
3. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,

c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,

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

e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,

f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:

1. Equals or exceeds \$25,000,
2. Is for audit services, or,
3. Requires the consent of a Federal official, and

g. It will require that each covered lower tier contractor and subcontractor:

1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
2. Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
  - a. Debarred from participation in its federally funded Project,
  - b. Suspended from participation in its federally funded Project,
  - c. Proposed for debarment from participation in its federally funded Project,
  - d. Declared ineligible to participate in its federally funded Project,
  - e. Voluntarily excluded from participation in its federally funded Project, or
  - f. Disqualified from participation in its federally funded Project, and

(3) It will provide a written explanation as indicated on a page attached in FTA’s TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.,

**Certification**

Contractor: \_\_\_\_\_

Signature of Authorized Official: \_\_\_\_\_ Date \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Name and Title of Contractor’s Authorized Official: \_\_\_\_\_

CONTRACTOR'S CERTIFICATION ON COMPLIANCE  
WITH FEDERAL FUNDING

I \_\_\_\_\_, certify that  
*(First and Last name, type or print)*

I am the \_\_\_\_\_, of  
*(Official Title, type or print)*

Company: \_\_\_\_\_  
*(Company Legal Name, Address, City, Postal Code, Country, type or print)*

I completed enclosed representations and certifications related to NDAA Act accurately up to the my best knowledge.

By signing this form I certify that misleading or inaccurate information represents violation of False Claims Act and may result to immediate cancellation or termination of current or future contract with the U.S. Government.

*(Company Seal)*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date (MM/DD/YYYY)*

52.204-24      REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2020)

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it “does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument” in the provision at 52.204-26, Covered Telecommunications Equipment or Services—Representation, or in paragraph (v) of the provision at 52.212-3, Offeror Representations and Certifications-Commercial Items.

- (a) *Definitions.* As used in this provision—  
*Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component* have the meanings provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.
- (b) *Prohibition.* (1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications

- equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—
- (i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
  - (ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- (2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—
- (i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
  - (ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- (c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunications equipment or services”.
- (d) *Representation.* The Offeror represents that—
- (1) It  will,  will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds “will” in paragraph (d)(1) of this section; and
  - (2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—
- It  does,  does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds “does” in paragraph (d)(2) of this section.
- (e) *Disclosures.* (1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded “will” in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:
- (i) For covered equipment—

- (A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);
  - (B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and
  - (C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.
- (ii) For covered services—
- (A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or
  - (B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.
- (2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded “does” in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:
- (i) For covered equipment—
- (A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);
  - (B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and
  - (C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.
- (ii) For covered services—
- (A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or
  - (B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(End of provision)

52.204-26 COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES-  
REPRESENTATION (DEC 2019)

- (a) *Definitions.* As used in this provision, “covered telecommunications equipment or services” has the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.
- (b) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunications equipment or services”.
- (c) *Representation.* The Offeror represents that it  does,  does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(End of provision)

PROHIBITION ON CONTRACTING FOR CERTAIN  
TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR  
EQUIPMENT (AUG 2020)

(a) *Definitions.* As used in this clause—

*Backhaul* means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

*Covered foreign country* means The People's Republic of China.

*Covered telecommunications equipment or services* means—

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- (2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (3) Telecommunications or video surveillance services provided by such entities or using such equipment; or
- (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

*Critical technology* means—

- (1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;
- (2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-
  - (i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or
  - (ii) For reasons relating to regional stability or surreptitious listening;
- (3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);
- (4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);
- (5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

- (6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

*Interconnection arrangements* means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

*Reasonable inquiry* means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

*Roaming* means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

*Substantial or essential component* means any component necessary for the proper function or performance of a piece of equipment, system, or service.

- (b) *Prohibition.* (1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.
- (2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.
- (c) *Exceptions.* This clause does not prohibit contractors from providing—
- (1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
  - (2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- (d) *Reporting requirement.*(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as

critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

- (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause
- (i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
  - (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.
- (e) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items

(End of clause)