



State of West Virginia
 Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

Request for Quotation

RFQ NUMBER
PTR10017

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
**FRANK WHITTAKER
 304-558-2316**

RFQ COPY
 TYPE NAME/ADDRESS HERE

VENDOR

SHIP TO

**DIVISION OF PUBLIC TRANSIT
 BUILDING 5, ROOM 906
 1900 KANAWHA BOULEVARD, EAST
 CHARLESTON, WV
 25305-0432 304-558-0428**

DATE PRINTED 11/05/2009	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
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BID OPENING DATE: **12/17/2009** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	EA		070-93		
<p>ADA COMPLIANT LOWERED FLOOR MINIVAN WITH MANUAL RAMP</p> <p>THE WEST VIRGINIA PURCHASING DIVISION, FOR THE AGENCY THE WEST VIRGINIA DIVISION OF PUBLIC TRANSIT IS SOLICITING BIDS FOR AN OPEN-END CONTRACT TO PROVIDE 1-15 ADA COMPLIANT LOWERED FLOOR MINIVAN WITH MANUAL RAMP PER THE ATTACHED SPECIFICATIONS.</p> <p>ALL TECHNICAL QUESTIONS AND REQUSET FOR APPROVED EQUALS MUST BE SUBMITTED IN WRITING TO FRANK WHITTAKER IN THE PURCHASING DIVISION VIA EMAIL AT FRANK.M.WHITTAKER@WV.GOV OR VIA FAX AT 304-558-4115. DEADLINE FOR TECHNICAL QUESTIONS AND REQUESTS FOR APPROVED EQUALS IS 11/20/09 AT 2:00 PM. ALL REQUESTS WILL BE ADDRESSED BY ADDENDUM AFTER THE DEADLINE.</p> <p>EXHIBIT 2</p> <p>LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON AND EXTENDS FOR A PERIOD OF ONE (1) YEAR OR UNTIL SUCH "REASONABLE TIME" THEREAFTER AS IS NECESSARY TO OBTAIN A NEW CONTRACT OR RENEW THE ORIGINAL CONTRACT. THE "REASONABLE TIME" PERIOD SHALL NOT EXCEED TWELVE (12) MONTHS. DURING THIS "REASONABLE TIME" THE VENDOR MAY TERMINATE THIS CONTRACT FOR ANY REASON UPON GIVING THE DIRECTOR OF PURCHASING THIRTY (30) DAYS WRITTEN NOTICE.</p> <p>UNLESS SPECIFIC PROVISIONS ARE STIPULATED IN THIS</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

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TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

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**GENERAL TERMS & CONDITIONS
REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)**

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. All quotations are governed by the *West Virginia Code* and the *Legislative Rules* of the Purchasing Division.
4. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.
5. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
6. Payment may only be made after the delivery and acceptance of goods or services.
7. Interest may be paid for late payment in accordance with the *West Virginia Code*.
8. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
9. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
10. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
11. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
12. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
13. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, the State may deem this contract null and void, and terminate such contract without further order.
14. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, and available online at the Purchasing Division's web site (<http://www.state.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement. Provided that, the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
15. **WEST VIRGINIA ALCOHOL & DRUG-FREE WORKPLACE ACT:** If this Contract constitutes a public improvement construction contract as set forth in Article 1D, Chapter 21 of the West Virginia Code ("The West Virginia Alcohol and Drug-Free Workplace Act"), then the following language shall hereby become part of this Contract: "The contractor and its subcontractors shall implement and maintain a written drug-free workplace policy in compliance with the West Virginia Alcohol and Drug-Free Workplace Act, as set forth in Article 1D, Chapter 21 of the West Virginia Code. The contractor and its subcontractors shall provide a sworn statement in writing, under the penalties of perjury, that they maintain a valid drug-free work place policy in compliance with the West Virginia and Drug-Free Workplace Act. It is understood and agreed that this Contract shall be cancelled by the awarding authority if the Contractor: 1) Fails to implement its drug-free workplace policy; 2) Fails to provide information regarding implementation of the contractor's drug-free workplace policy at the request of the public authority; or 3) Provides to the public authority false information regarding the contractor's drug-free workplace policy."

INSTRUCTIONS TO BIDDERS

1. Use the quotation forms provided by the Purchasing Division.
2. **SPECIFICATIONS:** Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Complete all sections of the quotation form.
4. Unit prices shall prevail in case of discrepancy.
5. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
6. **BID SUBMISSION:** All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130



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<p>CONTRACT DOCUMENT, THE TERMS, CONDITIONS, AND PRICING SET HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT.</p> <p>RENEWAL: THIS CONTRACT MAY BE RENEWED UPON THE MUTUAL WRITTEN CONSENT OF THE SPENDING UNIT AND VENDOR, SUBMITTED TO THE DIRECTOR OF PURCHASING THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE. SUCH RENEWAL SHALL BE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) ONE (1) YEAR PERIODS.</p> <p>CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM WITH THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.</p> <p>OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANSPORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK).</p> <p>QUANTITIES: QUANTITIES LISTED IN THE REQUISITION ARE APPROXIMATIONS ONLY, BASED ON ESTIMATES SUPPLIES BY THE STATE SPENDING UNIT. IT IS UNDERSTOOD AND AGREED THAT THE CONTRACT SHALL COVER THE QUANTITIES ACTUALLY ORDERED FOR DELIVERY DURING THE TERM OF CONTRACT, WHETHER MORE OR LESS THAN THE QUANTITIES SHOWN.</p> <p>ORDERING PROCEDURE: SPENDING UNIT(S) SHALL ISSUE A WRITTEN EQUIPMENT CONTRACT ORDER (FORM NUMBER WV-35) FOR COMMODITIES COVERED BY THIS CONTRACT. THE ORIGINAL WV-35 MUST BE SENT TO THE PURCHASING DIVISION</p>						

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<p>OF THE DEPARTMENT OF ADMINISTRATION. AFTER APPROVAL AND ENCUMBRANCE, ONE COPY OF THE PURCHASE ORDER WILL BE RETURNED TO THE SPENDING UNIT AND ONE COPY FORWARDED TO THE VENDOR AS AUTHORIZATION FOR SHIPMENT. NO ORDER IS VALID UNLESS APPROVED AND ENCUMBERED BY THE PURCHASING DIVISION.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THE STATE MAY DEEM THE CONTRACT NULL AND VOID, AND TERMINATE SUCH CONTRACT WITHOUT FUTHER ORDER.</p> <p>REV. 5/2009</p> <p style="text-align: center;">NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p style="text-align: center;">DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130</p> <p>THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:</p> <p>SEALED BID</p> <p>BUYER: 44</p> <p>RFQ. NO.: PTR10017</p>						

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LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
				12/17/09		
				1:30 PM		
PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID:						

CONTACT PERSON (PLEASE PRINT CLEARLY):						

***** THIS IS THE END OF RFQ PTR10017 ***** TOTAL: _____						

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PART 1 GENERAL CONDITIONS

1.0 INTENT OF RFQ

It is the intent of this Request for Quotation (RFQ) to require the Vendor to deliver a complete new vehicle of the type prescribed, ready for operation.

2.0 PRICE FOR A COMPLETE VEHICLE

- A. The price quoted in any proposal submitted shall include all labor, materials, tools, warranties, equipment, and other costs necessary to complete the manufacture and delivery of the vehicle. Any items omitted from the specifications which are clearly necessary for the completion and operation of such equipment and its appurtenances shall be considered a portion of such equipment, although not directly stated or covered in these specifications.

Notwithstanding the provision of drawings, technical specifications, or other data by the Division of Public Transit, the Vendor shall have the responsibility of supplying all parts and details required to make the vehicle complete and ready for service even though such details may not be specifically mentioned in the drawings and specifications. Fareboxes, radios, and other items that are installed by the Recipient Agency shall not be the responsibility of the Vendor unless they are included in this contract.

- B. The Purchasing Division of the Department of Administration in conjunction with the Division of Public Transit and the vendor shall mutually agree when it is necessary to make changes in, additions to, or deductions from the work to be performed or the material to be furnished, pursuant to the contract. Any changes which affect the contract price shall be in writing and require the approval of the Division of Public Transit and the Purchasing Division.
- C. Bid to be awarded to responsive vendor with lowest base vehicle bid price including delivery charges.
- D. Unit and extended prices, delivery charges and options should all be itemized.
- E. The vendor is to quote a vehicle price for one year. If the vendor is awarded this contract it shall be for a period of **one year, and with one renewal year with no price increase**. No increased will be allowed during the contract period unless approved by the Director of Purchasing.
- F. Quantities listed in the RFQ are approximations only, based on estimates supplied by the Division of Public Transit. The awarded Contract shall cover the quantities actually ordered for delivery during the term of the Contract.
- G. Additional agencies could purchase from any awarded contract resulting from this RFQ. Specified deliverables would be as originally advertised, competed, evaluated and awarded including the base and option quantities.

4.0 DELIVERY AND ACCEPTANCE

- A. Vendors should specify approximate delivery date(s) when submitting bids. Delivery of the vehicle should be completed within 150 days after receipt of executed contract documents.

If the delivery is delayed, for any reason, the request for extension must be made in writing to the Division of Public Transit.

The request for extension must be received by the Division of Public Transit no less than 10 days prior to the originally planned vehicle delivery date and must include detailed justification for the length of the time extension. In the event that the Vendor fails to give timely written notice of any delay, in delivery, it is agreed that liquidated damages will be

assessed, **NOT AS A PENALTY**, in the amount of \$50.00 per calendar day, per unit, beyond the required delivery date.

- B. Vendor shall make arrangements through the Division of Public Transit for delivery of the vehicles to **Division of Public Transit c/o Kanawha Valley Regional Transportation Authority, 1550 4th Avenue, Charleston, WV**. Delivery will be accepted Monday through Friday, between 9 a.m. and 2 p.m. exclusive of State holidays.

Any delay in delivery resulting from the common carrier's operations, accidents, or mechanical failures enroute, shall be construed as a cause beyond the Vendor's control; however, the Vendor shall have the responsibility of releasing the vehicle to the common carrier in time to reach the delivery site under normal delivery conditions.

- C. In case the delivery of the complete vehicle shall be necessarily delayed because of strike, injunction, civil disturbance, government controls, or by reason of any cause or circumstances beyond the control of the Vendor, as detailed in writing by the Vendor, the term of completion of delivery shall be extended by a number of days to be determined in each instance by mutual agreement of the Division of Public Transit and Vendor.
- D. If the vehicle is delivered over-the-road, a written report shall be submitted by the driver to the Division of Public Transit listing all incidents and unusual vehicle performance during the trip.
- Should any service or repair be required during delivery, a comprehensive report shall be submitted to the Director of the Division of Public Transit describing the nature of the service or repair and the cause.
- E. Prior to acceptance, the Vendor shall have total risk of loss of the vehicle, including any damage sustained during the Vendor's driveway operation. Drivers shall keep a maintenance log enroute and it shall be delivered to the Division of Public Transit with the vehicle.
- F. Vendor shall have 10 working days to complete a vehicle for conditional acceptance once the vehicle is received at Kanawha Valley Regional Transportation Authority. After 10 working days, the Vendor shall be responsible for paying the storage fee invoiced at a per day rate of currently \$10. The per day rate shall be deducted from payment of the final 10% of the vehicle cost.

4.1 Summary of Items to be Provided Upon Delivery

The following items must be furnished by the successful Vendor upon delivery of the vehicle:

- 4.1.1 All warranty verification vouchers, certificates or coupons.
- 4.1.2 Successful Vendor shall furnish each transit system: two (2) complete parts books and two (2) copies of maintenance manuals for each model year vehicle, including wiring schematics of auxiliary circuits, and all other necessary prints for the maintenance of the vehicle and (1) complete set of OEM Operations manual per transit system. All other orders, to other than transit systems, the successful Vendor shall supply (1) one copy of each mentioned per vehicle.
- 4.1.3 Drawings showing wiring schematics of auxiliary circuits, which would not be included in the standard vehicle maintenance manual.
- 4.1.4 Completely filled fuel tank or tanks.
- 4.1.5 Protection to 20° F below zero with permanent type antifreeze.
- 4.1.6 A vehicle(s) free of dealer signs and emblems.

- 4.1.7 Assurance of compliance with manufacturer's pre-delivery service.
- 4.1.8 A vehicle(s) which is clean, (If delivery of the vehicle occurs during the winter months of October through March, the vehicle shall be washed directly prior to delivery at Kanawha Valley Regional Transportation Authority to insure that the vehicle is free of dirt and salt deposits.) lubricated, serviced and ready for immediate service.
- 4.1.9 Operation, maintenance and warranty information for any add on equipment will be provided upon delivery if available to the Vendor.
- 4.1.10 Original vehicle chassis manufacturer's factory sticker itemizing equipment on the vehicle.
- 4.1.11 A certified weight slip showing front and drive axle weights for the vehicle at its curb weight as defined in Part 2 - Technical Specifications.
- 4.1.12 Vehicle shall comply with and conform to the State of West Virginia Motor Vehicle Inspection Law and shall have the current inspection sticker attached to the windshield.

4.2 Pre-Delivery Tests and Inspections

The pre-delivery tests and inspections shall be performed at or near the Vendor's plant in accordance with the procedures outlined in Part 4, "Quality Assurance", and shall be witnessed by the Vendor's resident inspector and/or by a representative of the Division of Public Transit. The vehicles shall be tested and inspected to determine whether they comply with the technical specifications in general and in particular with the quality assurance provisions. When the vehicles pass these tests and inspections, the resident inspector shall authorize release of the vehicles. The Division of Public Transit is under no obligation to perform the pre-delivery tests and inspections; however, this does not relieve the Vendor from the responsibility of adhering to these specifications.

4.3 Acceptance of Vehicle(s)

Within fifteen (15) calendar days after arrival at the designated point of delivery, the vehicle shall undergo the Division of Public Transit acceptance test. If the vehicle passes these tests, conditional acceptance of the vehicle by the Division of Public Transit occurs on the fifteenth day after delivery. Acceptance may occur earlier if the Division of Public Transit notifies the Vendor of early acceptance. If the vehicle fails these tests, it shall not be accepted until the repairs have been made.

4.4 Repairs After Non-Acceptance

The Division of Public Transit may require the Vendor, or its designated representative, to perform the repairs after non-acceptance, or the work may be done by the Recipient Agency's personnel with reimbursement by the Vendor.

4.4.1 Repairs By Vendor

If the Recipient Agency requires the Vendor to perform repairs after non-acceptance of the vehicle, the Vendor's representative must begin work within five (5) working days after receiving notifications from the Recipient Agency of failure of acceptance tests. The Recipient Agency shall make the vehicle available to complete repairs timely with the Vendor's repair schedule.

The Vendor shall provide, at its own expense, all spare parts, tools, and space required to complete the repairs. At the Recipient Agency's option, the Vendor may be required to remove the vehicle from the Recipient Agency's property. The repair procedure must

be diligently pursued by the Vendor's representatives, and the Vendor shall assume risk of loss while the vehicle is under its control.

4.4.2 Repairs By Recipient Agency

- a) Parts Used. If the Recipient Agency decides to perform the repairs after non-acceptance of the vehicle, it shall correct or repair the defect and any related defects using Vendor specified parts available from its own stock or those supplied by the Vendor specifically for this repair.

Monthly, or at a period to be mutually agreed upon, reports of all repairs covered by this procedure shall be submitted by the Recipient Agency to the Vendor for reimbursement or replacement of parts. The Vendor shall provide forms for these reports.

- b) Vendor Supplied Parts. If the Vendor supplies parts for repairs being performed by the Recipient Agency, after non-acceptance of the vehicle, these parts shall be shipped prepaid to the Recipient Agency from any source selected by the Vendor within ten (10) working days after receipt of the request for said parts, provided said parts are available for shipment.
- c) Return of Defective Components. The Vendor may request that parts covered by this provision be returned to the manufacturing plant. The total cost for this action shall be paid by the Vendor.
- d) Reimbursement For Labor. The Recipient Agency shall be reimbursed by the Vendor for labor. The amount shall be determined by multiplying the number of actual man-hours' straight wage rate plus 53 percent fringe benefits, plus the cost of towing in the vehicle if such action was necessary. These wage and fringe benefit rates shall not exceed the rates in effect in the Recipient Agency's service garage at the time the defect correction is made.
- e) Reimbursement For Parts. The Recipient Agency shall be reimbursed by the Vendor for defective parts that must be replaced to correct the defect. The reimbursement shall include taxes where applicable and 10 percent handling cost.

5.0 TITLE

Adequate documents for securing the vehicle in the name of the State of West Virginia/Division of Public Transit shall be provided to the Division of Public Transit at least 10 working days prior to the delivery of each vehicle. The Vendor warrants that the title shall pass to the State of West Virginia/Division of Public Transit free and clear of all liens, mortgages and encumbrances, financing statements, security agreements, claims and demands of any character.

According to WV State Code §SA-3-4(8), vendor agrees that liquidated damages shall be imposed at the rate of \$10 per calendar day for failure to provide the titling documentation at the time of vehicle delivery. This clause shall in no way be considered exclusive and shall not limit the State or agency's right to pursue any other additional remedy to which the State or agency may have legal cause for action including further damages against the vendor.

6.0 PAYMENT TO VENDOR

- A. Payment of 90% of the total cost shall be paid upon conditional acceptance of the vehicle.
- B. Conditional acceptance of the vehicles by the Division of Public Transit shall be made upon completion of inspection by the Division of Public Transit under Section 4.3 of this Part 1.

- C. Under the conditional acceptance of the vehicles provided, the Division of Public Transit shall retain 10% of the total cost per vehicle until all vehicles provided have been in actual service for 30 days.
- D. In the event any vehicle is found to be unacceptable during the 30 day period of conditional acceptance, the Division of Public Transit shall furnish to the Vendor in writing, a letter of non-acceptance detailing any and all deficiencies.
- E. Final acceptance of each vehicle shall be made by the Division of Public Transit in writing upon completion of the period of conditional acceptance and/or after any and all deficiencies have been corrected.
- F. Final acceptance shall be made on each individual vehicle provided. (Some vehicles may be accepted, while acceptance of others remain pending.)
- G. Final acceptance of each vehicle shall be provided in writing by the Director of the Division of Public Transit or his/her authorized representative.
- H. All warranties as described in this contract shall begin with the first day after the date of final acceptance of each vehicle. **Vendor shall furnish Notification of Delayed Delivery Date or In-Transit Mileage Accumulation Forms for completion by the Division of Public Transit upon acceptance of the vehicle.**
- I. Prompt Payment The prime Vendor agrees to pay each sub-contractor under this prime contract for satisfactory performance of its contract no later than 15 days from the receipt of each payment the prime Vendor receives from the Division of Public Transit. The Vendor agrees further to return retainage payments to each subcontractor within 15 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Division of Public Transit. This clause applies to both DBE and non-DBE subcontractors.
- J. When submitting invoices for payment to the Division of Public Transit, the Vendor shall be required to provide an original typed invoice. The following items shall appear on the invoice:
- 1) Vendor's Federal Employee Identification Number (FEIN)
 - 2) Purchase Order Number
 - 3) Invoice should reflect the base vehicle cost and any applicable options with unit cost. **NOTE: Two invoices shall be submitted for each vehicle. One for 90% and one for 10%.**
 - 4) Submit all invoices to:
Division of Public Transit
Building 5, Room 906
1900 Kanawha Blvd., East
Charleston, West Virginia 25305-0432

7.0 SERVICE AND PARTS

The Vendor shall state on **Bid Form #1** the representative(s) responsible for assisting the Recipient Agency(ies), as well as the location of the nearest distribution center(s) which shall furnish a complete supply of parts and components for the repair and maintenance of the vehicles to be supplied.

7.1 Specified Parts and "Approved Equals"

- 7.1.1 All parts shall be new and in no case will used (except for testing), reconditioned, or obsolete parts be accepted. Vehicles shall have identical units, accessories, and construction.
- 7.1.2 In all cases, materials shall be furnished as specified. Where brand names or specific items or processes are used in the specifications, consider the term "approved equal" to follow. However, a request for approval for any proposed substitution or "approved equal" shall be included in writing under the terms stated in Section 8.2 of Part I.

The Vendor may be required to supply the purchaser with performance data, samples, and special guarantees as a condition of acceptance of any proposed alternates.

- 7.1.3 The Division of Public Transit shall have the power to reject any material furnished or work performed under the contract which does not conform to these specifications and contract.

7.2 Materials and Workmanship

- 7.2.1 Vendor shall incorporate in the proposed vehicle(s) the latest technological achievements consistent to achieving maximum service life and superior attractiveness of appearance.
- 7.2.2 Vehicle(s) shall be delivered in new, first-class condition, complete and ready for operation on the street and the Vendor shall assume all responsibility and liability incident to said delivery.
- 7.2.3 All materials used in the construction of vehicle(s) and in all its parts and accessories shall conform to A.S.T.M., S.A.E., or similar associations published standards, and be of top quality.
- 7.2.4 The vehicle(s) shall be built with suitable and easily accessible compartments provided for all apparatus, sound deadening insulation, wherever needed, and all operating devices so mounted as to reduce and keep all noise and vibration to an absolute minimum.
- 7.2.5 Vendor shall assume responsibility for all material and accessories used in vehicle(s) and their proper installation and their warranty, whether the same is manufactured by the Vendor or purchased ready-made from a source outside the Vendor's company.

7.3 Spare Parts

The Vendor shall guarantee the availability of replacement parts for these vehicles for at least a seven (7) year period after the date of acceptance. Spare parts shall be interchangeable with the original equipment and shall be manufactured in accordance with the quality assurance provisions of this contract.

7.4 Engineers

The Vendor shall, at its own expense, have a competent engineering representative(s) available on request to assist the Recipient Agency's(ies') staff in the solution of engineering or design problems within the scope of the specifications that may arise during the warranty period.

7.5 Documents

The Vendor shall provide current maintenance manuals, current parts manuals and standard operator manuals, for each agency or authority, to the Division of Public Transit as part of this contract. The Vendor shall keep maintenance manuals available for a period of ten (10) years after the date of acceptance of the vehicles procured under this contract. The Vendor shall also

keep parts books up-to-date for a period of ten (10) years. The supplied maintenance and operator's manuals shall incorporate all equipment ordered on the vehicles covered by this procurement.

8.0 **BID REQUIREMENTS**

All bids must remain in effect for 120 days from the date that bids are opened.

8.1 **Qualifications for Award**

Award of the contract shall be made to the Vendor quoting the lowest base vehicle bid price, including delivery charges, as described on Bid Form, provided the bid is responsive in all respects to these procurement requirements. The Vendor must be a person, firm or corporation that:

Has in operation, a manufacturing plant adequate to assure delivery of all equipment within the time specified under the contract.

Has adequate engineering and service personnel, or has the capability to have such personnel, to satisfy any engineering or service problems that may arise during the warranty period.

Has similar vehicles in operation in comparable service for a minimum of one (1) year. The Vendor may be required to furnish a customer list indicating the number of units and dates in service during approved equal period or during the bid evaluation period in addition to the requirements under 8.5.9 of this part of the specifications.

In lieu of this requirement, certified results of a shaker test may be requested by the Division of Public Transit during the approved equal period to prove the proposed vehicles to be capable of operating the service contemplated for these vehicles.

Has the necessary facilities and financial resources to complete the contract in a satisfactory manner within a required time. The Division of Public Transit shall have the right to conduct a pre-award survey of each Vendor.

Has complete and accurate maintenance, parts and operator's manuals.

8.2 **Requests for Approved Equals or Clarifications**

A Vendor may submit requests for "approved equals" or clarifications on items that are included within this bid document and specification package. All such submissions must be in writing and must be fully supported with technical data, test results, or other pertinent information, as evidence that the substitute offered is equal to or better than that required herein. All requests for "approved equals" or clarifications shall be received by the Division of Public Transit by November 20, 2009. Request received after November 20, 2009 shall not be considered.

The Division of Public Transit shall review requests for approved equals or clarifications and shall issue a written response no later than December 4, 2009. All potential vendors who have submitted a request for approved equals prior to November 20, 2009 shall be forwarded a copy of the written responses.

8.3 **Summary of Items to be Supplied With Bid**

By submitting the items in 8.3.1 and 8.3.2 below, the Vendor certifies that it will comply with all requirements of this RFQ and related addenda.

8.3.1 All forms included under Part 5 (Bid Forms) must be properly completed and furnished by the Vendor as part of the bid. Failure to submit any of these forms shall disqualify the bid.

8.3.2 Technical and other data as required under 8.5, "Pre-Award Review".

8.4 Certifications

Vendor shall certify on **Bid Form #2 and #5** that the vehicles offered comply with the following:

8.4.1 Air and Noise Pollution Certification

The Vendor bidding on these specifications shall be required to certify in writing that the vehicle(s) shall comply with the air pollution criteria established by the Environmental Protection Agency of the United States Government.

8.4.2 Safety Certification

The Vendor shall furnish written certification that the vehicle(s) shall comply with the Federal Motor Vehicle Safety Standards as established by the U. S. Department of Transportation and with requirements of the laws of the State of West Virginia, all as in effect at the time of manufacture, as to lighting equipment and all warning, operating and safety devices.

8.5 Pre-Award Review

The Vendor is recommended to submit the following items within the bid and any further items if requested by the Division of Public Transit. Failure to submit items will result in disqualification of vendor for award of contract.

- 8.5.1 Complete mechanical description of vehicle, its construction and equipment including manufacturer's model name and/or number. Equipment to be described shall include the wheelchair lift, air conditioner, flip-up seat, and wheelchair securement system, if these items are specified herein.
- 8.5.2 Proposed interior floor plan, showing detailed dimensions including the location of the wheelchair securement system and stanchions if specified.
- 8.5.3 Curb weight (empty weight) and gross vehicle weight rating (GVWR) of vehicle.
- 8.5.4 Samples or paint charts of available exterior paint colors.
- 8.5.5 Description of the warranties the Vendor proposes to furnish for the vehicle and for required ancillary equipment, including a listing of sites where warranty work will be performed.
- 8.5.6 The location of the nearest depot which will furnish a complete supply of parts and components for the repair and maintenance of the vehicle to be supplied.
- 8.5.7 Description of the undercoating/rustproofing system, including warranty to be provided.
- 8.5.8 Identification of the specific location of the place of assembly in the case of a bus or the place of a conversion in the case of a converted van. If the location changes, the Vendor must notify the Division of Public Transit, in which case the Division of Public Transit reserves the right to perform an inspection similar to the pre-award inspection identified. If the results of the inspection are unsatisfactory, the contract may be terminated by the Division of Public Transit.
- 8.5.9 A list of five users' names, addresses, and telephone numbers who have been provided similar equipment by the Vendor. If the Vendor has not provided similar equipment, the Division of Public Transit reserves the right to determine the acceptability of the equipment proposed by the Vendor.

8.6 Disadvantaged Business Enterprise

- 8.6.1 All U. S. Department of Transportation, Federal Transit Administration (FTA) assisted contracts between FTA, the Division of Public Transit, and any Vendor shall include the following language:

POLICY. It is the policy of the Department of Transportation that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to the agreement.

DBE OBLIGATION. The recipient or its Vendor agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part

with

federal funds provided under this agreement. In this regard, all recipients or Vendors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their Vendors shall not discriminate on the basis of race, color, national origin, religion, sex, age or physical handicap in the award and performance of DOT-assisted contracts.

- 8.6.2 The manufacturer of transit vehicles shall certify that it has complied with the requirements of 49 CFR Part 26 (March 4, 1999), Section 26.49, "Transit Vehicle Manufacturers." This certification shall be submitted with responses to this solicitation on **Bid Form #3**.
- 8.6.3 The Vendor shall make good faith efforts to replace a Disadvantaged Business Enterprise subcontractor, that is unable to perform, with another Disadvantaged Business Enterprise subcontractor.
- 8.6.4 Where the Vendor is found to have failed to exert sufficient reasonable and good faith efforts to involve DBE's in the work provided, the Division of Public Transit may declare the Vendor non-compliant and in breach of contract.
- 8.6.5 The Vendor will keep records and documents for a reasonable time following performance of this contract to indicate compliance with WV Department of Transportation, Division of Public Transit DBE Program. These records and documents will be made available at reasonable times and places for inspection by any authorized representative of the WV Department of Transportation, Division of Public Transit and will be submitted to the WV Department of Transportation, Division of Public Transit upon request.
- 8.6.6 The Vendor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Vendor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Vendor 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 WV Department of Transportation, Division of Public Transit deems appropriate.

8.7 Fly America

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

carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. Flag air carrier was not available or why it was necessary to use a foreign air carrier and

shall, in any event, provide a certificate of compliance with the Fly America requirements. The Vendor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

8.8 Prohibited Interest

No employee, officer, board member, agent or their family members of the Division of Public Transit may participate in the selection, award, or administration of a Contract supported by Federal funds if a real or apparent conflict of interest is involved. Such a conflict could arise when any of the parties mentioned above have a financial or other interest in the Vendor selected for the Contract.

8.9 Civil Rights Requirements

In connection with the execution of this contract, the following requirements will apply:

- (1) Nondiscrimination. In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d, *et seq.*, Section 303 of the Age Discrimination Act of 1974, as amended, 42 U.S.C. § 6101, *et seq.*, Section 202 of the Americans With Disabilities Act of 1990, 42 U.S.C. § 12101, *et seq.*, and Federal transit law at 49 U.S.C. § 5332, the Vendor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age or disability. In addition, the Vendor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- (2) Equal Employment Opportunity. The following equal employment opportunity requirements apply to the underlying contract:
 - (a) Race, Color, Creed, National Origin, Sex.
In accordance with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000 e, and Federal transit laws at 49 U.S.C. § 5332, the Vendor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Vendor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, color, creed, national origin, sex, disability or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.
 - (b) Age. In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 42 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Vendor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.
 - (c) Disabilities. In accordance with Section 102 of the Americans With Disabilities Act,

as amended, 42 U.S.C. § 12112, the Vendor agrees that it will comply with the

requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans With Disabilities

Act," 29 CFR, Part 1630, pertaining to employment of persons with disabilities. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.

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

8.10 Bus Testing

The Vendor agrees to comply with 49 U.S.C. § 5318(e) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the following:

- (1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the Division of Public Transit at a point in the procurement process specified by the Division of Public Transit which will be prior to the Division of Public Transit's final acceptance of the first vehicle.
- (2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
- (3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the Division of Public Transit prior to the Division's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
- (4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.
- (5) Any bidder or offerer must submit to the Division of Public Transit FTA's Bus Testing Requirements Certification on **Bid Form #8**. Bids or offers that are not accompanied by a completed certification must be rejected as non-responsive. **A copy of the bus testing report should be included with the bid.** This requirement does not apply to lower tier subcontractors.

8.11 Buy America Certification

Vendor agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7 and include, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content.

A bidder or offerer must submit to the Division of Public Transit the appropriate Buy America certification on **Bid Form #4** with all bids on FTA-funded contracts, except those subject to a

general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as non-responsive. This requirement does not apply to lower tier subcontractors.

Should the Vendor be declared responsive and low bid, pursuant to Pre-Award and Post Delivery Audit Requirements, the Division of Public Transit will require the Vendor to submit documentation (prior to any award) that lists:

- (1) Component and sub-component parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and
- (2) The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
- (3) The Vendor shall submit one manufacturer's Federal Motor Vehicle Safety Standards (FMVSS) self-certification sticker providing information that the vehicle quoted complies with relevant FMVSS, or Manufacturer's certified statement that the contracted vehicles will not be subject to FMVSS regulations.
- (4) Vendor shall submit evidence that it will be capable of meeting the bid specifications.

As required by the Post Delivery Audit Requirement, any successful vendor will be required to furnish the following prior to any completed vehicle being placed into service or before any payment can be made:

- (1) Actual component and sub-component parts of the rolling stock provided, identified by manufacturer of the parts, their country of origin and costs; and
- (2) Actual location of the final assembly point for the rolling stock provided, including a description of the activities that took place at the final assembly point and the actual cost of final assembly.

8.12 Cargo Preference

The Vendor agrees:

8.12.1 To utilize privately owned United States--Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States--Flag commercial vessels;

8.12.2 To furnish within twenty (20) working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on board" commercial ocean bill of lading in English for each shipment of cargo described in the paragraph above to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the Division of Public Transit (through the Vendor in the case of a subcontractor's bill of lading.)

8.12.3 To include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

8.13 Federal Regulation Changes

Vendor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement (Form FTA MA(15) dated October 1, 2008) between the WV Department of Transportation, Division of Public Transit and FTA, as they may be amended or promulgated from time to time

during the term of this Contract. Vendor's failure to so comply shall constitute a material breach of this contract.

8.14 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 contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder certifies as follows:

The certification in this clause is a material representation of fact relied upon by the WV Division of Public Transit. If it is later determined that the bidder knowingly rendered an erroneous certification, in addition to remedies available to the WV Division of Public Transit, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder 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 further agrees to include a provision requiring such compliance in its lower tier covered transactions. All Vendors shall be required to certify that they are not on the Comptroller General's list of ineligible contractors on **Bid Forms #6 and #6-A**.

8.15 Restrictions on Lobbying

Every Vendor who applies or bids for an award of \$100,000 or more shall file the certification on **Bid Form #9** required by C.F.R. Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of the registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the Division of Public Transit.

8.16 Environmental Regulations

The Vendor agrees to comply with all applicable standards, orders, or requirements issued under Executive Order 11738, and Environmental Protection Agency Regulations (40 CFR, Part 15), which prohibits the use under nonexempt federal contracts, grants or loans of facilities included on the EPA list of violating facilities. Any violations shall be reported to the Division of Public Transit who will forward the report to the Federal Transit Administration and to the US EPA Administrator for enforcement (9EN-329).

8.17 Clean Air

The Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7414 and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Vendor agrees to report each violation to the Division of Public Transit and understands and agrees that the Division of Public Transit will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Vendor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

8.18 Clean Water

The Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to Section 508 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1368, and other provisions of the Federal Water Pollution Act, as amended, U.S.C. 1251 *et seq.* The Vendor agrees to report each violation to the Division of Public Transit and understands and agrees that the Division of Public Transit will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Vendor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

8.19 Energy Conservation Requirements

The Vendor 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.

8.20 Contract Work Hours and Safety Standards Act

The Vendor shall comply with Section 102 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701 *et seq.*, esp. § 3702) as supplemented by Department of Labor Regulations (29 CFR, § 5 & 29 CFR § 1926) as they involve the employment of mechanics and laborers.

Overtime Requirements. No Vendor or subcontractor 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.

Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in paragraph (2) of this section, the Vendor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Vendor and subcontractor shall be liable to the United States 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 (2) 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 (2) of this section.

Withholding for Unpaid Wages and Liquidated Damages. The WV Division of Public Transit 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 Vendor or subcontractor under any such contract or any other Federal contract with the same prime Vendor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Vendor, such sums as may be determined to be necessary to satisfy any liabilities of such Vendor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (3) of this section.

Subcontracts. The Vendor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Vendor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

Payrolls and Basic Records. Payrolls and basic records relating thereto shall be maintained by the Vendor during the course of the work and preserved for a period of three years thereafter for all

laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR .5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the Vendor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

Vendors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

8.21 Hold Harmless

The Vendor agrees to protect, defend, indemnify and hold the State of WV, the Division of Public Transit, its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, action, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this Contract and/or the performance hereof. Without limiting the generality of the foregoing, any and all such claims, etc. relating to personal injury, infringement of any patent, trademark, copyright (or application for any thereof) or of any other tangible or intangible personal or property right, or actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decrees of any court, shall be included in the indemnity hereunder. The Vendor further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at his/her sole expense and agrees to bear all other costs and expenses related thereto, even if such claim is groundless, false or fraudulent.

8.22 Patent Infringement

The Vendor shall advise the Division of Public Transit of any impending patent suit and shall provide all information available. The Vendor shall defend any suit or proceeding brought against the Division of Public Transit based on a claim that any equipment, or any part thereof, furnished under this contract constitutes an infringement of any patent, and the Vendor shall pay all damages and costs awarded therein, excluding incidental and consequential damages, against the Division of Public Transit. In case said equipment, or any part thereof, is in such suit held to constitute infringement and use of said equipment or parts is enjoined, the Vendor shall, at its own expense and its option, either procure for the Division of Public Transit the right to continue using said equipment or part, or replace same with non-infringing equipment, or modify it so it becomes non-infringing.

9.0 AMENDMENTS TO SOLICITATION AND POSTPONEMENT OF BID DUE DATE

- A. The State of West Virginia reserves the right to amend any element or part of these bid documents and specifications and/or change the bid opening date and time, up to the time and date that bids are due. In this event, all potential Vendors that have received a copy of these contract documents and specifications shall be notified of the postponement and the new time and date that bids will be due. Such notification shall be mailed or otherwise provided. Any bids received in accordance with the original bid due date shall be held unopened till the new bid opening date.

- B. In the event that amendments are issued by the State fourteen (14) or more days prior to the original bid due date, the original date and time established for the receipt of bids, at the State's option, may or may not be changed. The addendum notification sent by the State shall contain either a statement that the bid due date remains as previously established or shall provide a new time and date if the bid due date is changed.
- C. In the event that addenda are issued by the State, Vendors must complete the Addendum Acknowledgment form contained within these contract documents and specifications and submit that form with their bid. **Bid Form #10** shall be used for this purpose.

10.0 **BID PROTEST PROCEDURES**

1. **Filing of Protest(s)**

Protests based on a violation of State law or rule must be filed no later than five (5) working days after issuance by the Purchasing Division of the notice of intent to award the contract or purchase order. Protests based on restrictive bid specifications or alleged improprieties in any type of solicitation, which are apparent prior to the bid opening or closing date for receipt of bids or proposals, must be filed no later than five (5) working days prior to the bid opening or closing date. Any other protest must be filed no later than five (5) working days following award of the contract or purchase order.

The Contractor is responsible for knowing the bid opening and award dates. Protests filed after the time frames specified above will not be considered. In addition, after these time frames, protests may not be amended, altered or changed.

All protests must be in writing and filed with the WV Purchasing Division containing the following:

- a) Include the name and address of the protester.
- b) Identify the requisition number of the bid or the purchase order number.
- c) Contain a statement of the grounds for protest and any supporting documentation.
- d) Indicate the ruling or relief desired from the WV Purchasing Division.

Failure to submit this information shall be grounds for rejection of the protest by the Director of the Purchasing Division.

No formal briefs or other technical forms of pleading or motion are required, but a protest and other submission should be concise, logically arranged, and clear.

The protest must be filed in writing with the:

Director
WV Purchasing Division
2019 Washington Street, East
P. O. Box 50130
Charleston, WV 25305-0130

with a copy of the protest sent to the:

Division of Public Transit
Building 5, Room 906
1900 Kanawha Boulevard, East
Charleston, WV 25305-0432

To expedite handling, the address should include "**ATTENTION: Bid Protest – Bid #** .

Protests received timely will be reviewed and a written decision issued. **The Director of the WV Purchasing Division has the authority to make the final determination on any protest.**

2. Protest Review

The Purchasing Director or his/her designee shall review the matter of protest and issue a written decision. A hearing may be conducted at the option of the Purchasing Director or assigned designee.

3. Division of Public Transit Report/Response

The Division of Public Transit shall submit a complete report/response on the protest to the Director of the WV Purchasing Division responding in detail to each substantive issue raised in the protest, with a copy to the protester, as expeditiously as possible but not later than twenty-five (25) working days after being notified of the protest.

4. Withholding of Award

When a protest has been filed before award, the WV Purchasing Division will not make an award prior to the resolution of the protest, and when a protest has been filed before the opening of bids, the WV Purchasing Division will not open bids prior to the resolution of the protest, unless the WV Purchasing Division determines that:

- a) The items to be procured are urgently required; or
- b) Delivery or performance will be unduly delayed by failure to make the award promptly;
or
- c) Failure to make prompt award will otherwise cause undue harm to a recipient, the Division of Public Transit or the State of West Virginia.

In the event that the WV Purchasing Division determines that the award is to be made during the pendency of a protest, the Division of Public Transit will notify the Federal Transit Administration (FTA) prior to making such award.

5. Request for Reconsideration

Reconsideration of a decision by the WV Purchasing Division may be requested by the protester or any party involved in the protest. The request for reconsideration must be in writing, made to the Director of the Purchasing Division and shall contain the following:

- a) Include the name and address of the aggrieved party.
- b) Identify the requisition number of the bid or the purchase order number.
- c) Contain a detailed statement of the grounds for reconsideration with supporting documentation; and a statement of whether a hearing is requested.
- d) Indicate the ruling or relief desired from the WV Purchasing Division.

Request for reconsideration of a decision of the WV Purchasing Division shall be filed not later than five (5) working days after the initial written decision. The protest shall not be considered pending during the five(5) working day period specified in this paragraph.

In the event a hearing is requested by the aggrieved party, the Purchasing Director, or his or her designee, will set a time and place for the hearing for full review of the matter.

If no hearing is requested, the Purchasing Director, or his or her designee, will review the request for reconsideration and issue a written decision. If a hearing is requested, the Purchasing Director, or his or her designee, will hold the hearing and then issue a written decision.

6. Refusal of Protests

The State of West Virginia may refuse to decide any protest or reconsideration where the matter involved is one of the following:

- a) the protest is the subject of litigation before a court of competent jurisdiction;
- b) the protest has previously been decided on the merits by a court of competent jurisdiction;
- c) the protest has been decided in a previous protest.

The provisions do not apply where the court requests, expects, or otherwise expresses interest in the decision of the State.

7. Appeals to the Federal Transit Administration (FTA)

Under the Federal Transit Administration's Circular 4220.1F, the Federal Transit Administration's (FTA's) appeals process for reviewing protests of a recipient's procurement decisions are:

1. Requirements for the Protester. The protester must:

- a) Qualify as an "Interested Party." Only an "interested party" qualifies for FTA review of its appeal. An "interested party" is a party that is an actual or prospective bidder or offeror whose direct economic interest would be affected by the award or failure to award the contract at issue.
 1. Subcontractors. A subcontractor does not qualify as an "interested party" because it does not have a direct economic interest in the results of the procurement.
 2. Consortia/Joint Ventures/Partnerships/Teams. An established consortium, joint venture, partnership, or team that is an actual bidder or offeror and is acting in its entirety, would qualify as an "interested party" because it has a direct economic interest in the results of the procurement. An individual member of a consortium, joint venture, partnership, or team, acting solely in its individual capacity, does not qualify as an "interested party" because it does not have a direct economic interest in the results of the procurement.
 3. Associations or Organizations. An association or organization that does not perform contracts does not qualify as an "interested party," because it does not have a direct economic interest in the results of the procurement.
- b) Exhaust Administrative Remedies. The protester must exhaust its administrative remedies by pursuing the WV Division of Public Transit's protest procedures to completion before appealing the WV Division of Public Transit's decision to FTA.
- c) Appeal Within Five Days. The protester must deliver its appeal to the FTA Regional Administrator, Region III, 1760 Market Street, Suite 500, Philadelphia, PA 19103-4124 within five (5) working days of the date when the protester has received actual or constructive notice of the WV Division of Public Transit's final decision. Likewise, the protester must provide its appeal to the same address within five (5) working

days of the date when the protester has identified other grounds for appeal to FTA. For example, other grounds for appeal include the WV Division of Public Transit's failure to have or failure to comply with its protest procedures or failure to review the protest.

2. Extent of FTA Review. FTA limits its review of protests to:

- a) Failure of the Division of Public Transit to have or adhere to its written bid protest procedures, or failure of the Division of Public Transit to review a complaint or protest.
- b) Alleged violations on other grounds are under the jurisdiction of the appropriate State or local administrative authorities.
- c) Alleged violations of a specific Federal Law or regulation that provides an applicable complaint procedure shall be submitted and processed in accordance with that Federal Law or regulation. See, e.g., Buy America Requirements, 49 C.F.R. Part 661 (Section 661.15); Participation by Minority Business Enterprise in Department of Transportation Programs, 49 C.F.R. Section 26.89.

FTA will exercise discretionary jurisdiction over those appeals involving issues important to FTA's overall public transportation program. FTA will refer violations of Federal law for which it does not have primary jurisdiction to the Federal authority having proper jurisdiction.

3. FTA Determinations to Decline Protest Reviews. FTA's determination to decline jurisdiction over a protest does not mean that FTA approves of or agrees with the Division of Public Transit's decision or that FTA has determined the contract is eligible for Federal participation. FTA's determination means only that FTA does not consider the issues presented to be sufficiently important to FTA's overall program that FTA considers a review to be required.

11.0 TERMINATION OF CONTRACT

The State reserves the right to cancel any purchasing agreement arising out of an award under these Specifications if, in its opinion, there is any failure to adequately perform the requirements of these Specifications. Under these conditions, cancellation will be effective immediately upon written notification to the Vendor and such cancellation will relieve the State from any obligation to purchase any items under such purchasing agreement.

11.1 Termination for Convenience

The performance of work under this Contract may be terminated by the Director of the Division of Purchasing in accordance with this clause in whole, or from time to time in part, whenever the Purchasing Division shall determine that such termination is in the best interest of the State. Any such termination shall be effected by delivery to the Vendor of a notice of termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

After receipt of a notice of termination, and except as otherwise directed by the Purchasing Division, the Vendor shall: stop work under the Contract on the date and to the extent specified in the notice of termination; place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated; terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination; assign to the State in the manner, at the time, and to the extent directed by the Purchasing Division, all of the right, title, and interest of the Vendor under the orders and subcontractors so terminated, in which case the State shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts; settle all outstanding liabilities and all claims arising out of such

termination of orders and subcontracts, with the approval or ratification of the Purchasing Division, to the extent as may be required, which approval or ratification shall be final for all the purposes of this clause, transfer title to the State and deliver in the manner, at the times, and to the extent, if any, directed by Purchasing Division the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as part of, or acquired in connection with the performance of, the work terminated, and the completed or partially completed plans, drawing, information and other property which, if the Contract had been completed, would have been required to be furnished to the Division of Public Transit; use its best efforts to sell, in the manner, at the times, to the extent, and at the price(s) directed or authorized by the Purchasing Division, any property of the types referred to above, provided, however, that the Vendor shall not be required to extend credit to any purchaser, and may acquire any such property under the conditions prescribed by and at a price(s) approved by the Purchasing Division, and provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the State to the Vendor under this Contract or shall otherwise be credited to the price or cost of the work covered by this Contract or paid in such other manner as the Purchasing Division may direct; complete performance of such part of the work as shall not have been terminated by the notice of termination; and take such action as may be necessary, or as the Purchasing Division may direct, for the protection or preservation of the property related to this contract which is in the possession of the Vendor and in which the State has or may acquire an interest.

Settlement of claims by the Vendor under this termination for convenience clause shall be in accordance with the provisions set forth in Federal Procurement Regulations (FPR) 18.701 (c), (d), (e), (f), (g), (h), (i), (j), and (k) except that wherever the word "Government" appears, it shall be deleted and the word "State" shall be substituted in lieu thereof.

11.2 Termination for Default

The Division of Public Transit may, by written notice of default to the Vendor, terminate the whole or any part of this Contract if the Vendor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or if the Vendor fails to perform any of the other provisions of the Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Purchasing Division may authorize in writing) after receipt of notice from the Purchasing Division specifying such failure.

If the Contract is terminated in whole or in part for default, the Division of Public Transit may procure, upon such terms and in such manner as the Purchasing Division may deem appropriate, supplies or services similar to those so terminated. The Vendor shall be liable to the Division of Public Transit for any excess costs for such similar supplies or services, and shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.

Except with respect to defaults of subcontractors, the Vendor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of the Vendor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Vendor and subcontractor, and without the fault or negligence of either of them, the Vendor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery schedule.

Payment for completed supplies delivered to and accepted by the Division of Public Transit shall be at the Contract price. The Division of Public Transit may withhold from amounts otherwise due the Vendor for such completed supplies such sum as the Purchasing Division determines to be necessary to protect the Division of Public Transit against loss because of outstanding liens or claims of former lien holders. If, after notice of termination of this Contract under the provision of this clause, it is determined for any reason that the Vendor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and

obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience of the Division of Public Transit.

The rights and remedies of the Division of Public Transit provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

12. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Division of Public Transit and the Vendor 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 the Contract and shall not be subject to any obligations or liabilities to the Division of Public Transit, the Vendor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract.

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

13. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The Vendor 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 Contract. Upon execution of the underlying contract, the Vendor 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 Vendor 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 Vendor to the extent the Federal Government deems appropriate.

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

The Vendor 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.

14. EXCLUSIONARY OR DISCRIMINATORY SPECIFICATIONS

The Vendor agrees that it will comply with the requirements of 49 U.S.C. § 5325(h) by refraining from using any Federal assistance awarded by the Division of Public Transit to support procurements using exclusionary or discriminatory specifications.

15. GEOGRAPHIC RESTRICTIONS

The Vendor agrees to refrain from using state or local geographic preferences, except those expressly mandated or encouraged by Federal statute, and as permitted by FTA.

16. APPLICATION OF FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS

To achieve compliance with changing Federal, State and Local requirements, the Vendor shall

note that Federal, State and Local requirements may change and the changed requirements will apply to this Contract as required.

17. **BANKRUPTCY**

Upon entering of a judgment of bankruptcy or insolvency by or against a Vendor, the Division of Public Transit may terminate this contract for cause.

18. **PREFERENCE FOR RECYCLED PRODUCTS**

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

19. **METRIC SYSTEM**

To the extent required by the U.S. Department of Transportation or the Federal Transit Administration, the Vendor agrees to use the metric system of measurement in its Contract activities, as may be required by 15 U.S.C. §§ 205a et seq.; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. § 205a note; and other regulations, guidelines, and policies issued by the U.S. Department of Transportation or the Federal Transit Administration. To the extent practicable and feasible, the Vendor agrees to accept products and services with dimensions expressed in the metric system of measurement.

20. **LICENSING AND PERMITS**

The Vendor shall be appropriately licensed for the work required as a result of the Contract. The cost for any required licenses or permits shall be the responsibility of the Vendor. The Vendor is liable for any and all taxes due as a result of the Contract.

21. **COMPLIANCE WITH LAWS AND PERMITS**

The Vendor shall give all notices and comply with all existing and future Federal, State and Municipal Laws, Ordinances, Rules, Regulations, and Orders of any public authority bearing on the performance of the Contract, including, but not limited to, the laws referred to in these provisions of the Contract and the other Contract documents. If the Contract documents are at variance therewith in any respect, any necessary changes shall be incorporated by appropriate modification. Upon request, the Vendor shall furnish to the Division of Public Transit certificates of compliance with all such laws, orders, and regulations.

22. **SEVERABILITY**

In the event any provision of the Contract is declared or determined to be unlawful, invalid or unconstitutional, such declaration shall not affect, in any manner, the legality of the remaining provisions of the Contract and each provision of the Contract will be and is deemed to be separate and severable from each other provision.

23. **INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the preceding Contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Vendor shall not perform any act, fail to perform any act, or refuse to comply with any Division of Public Transit requests which would cause the Division of Public Transit to be in violation of the FTA terms and conditions.

24. **ACCESS TO RECORDS**

The Vendor agrees to permit the WV Division of Public Transit, the Secretary of the United States Department of Transportation and the Comptroller General of the United States, or their authorized representatives, to inspect all Contract work, materials, payrolls, and other data and records with regard to the Contract. The Vendor also agrees to permit an audit of the books, records, and accounts of the Vendor and its subcontractors.

25. **ACCESSIBILITY**

Vendor agrees that any vehicles provided shall be in accordance with the 42 U.S.C. Sections 12101 et seq. and DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37; and Joint ATBCB/DOT regulations, "American with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 CFR Part 1192 and 49 CFR Part 38.

26. **SENSITIVE SECURITY INFORMATION**

Each Vendor must protect, and take measures to ensure that its subcontractors at each tier protect, "sensitive security information" made available during the administration of this contract or any subcontract to ensure compliance with 49 U.S.C. Section 40119(b) and implementing DOT regulations, "Protection of Sensitive Security Information," 49 CFR Part 15, and with 49 U.S.C. Section 114(s) and implementing Department of Homeland Security regulations, "Protection of Sensitive Security Information," 49 CFR Part 1520.

27. **SEAT BELT USE**

In compliance with Federal Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. Section 402 note, FTA encourages each vendor to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in any third party subcontracts, involving this project.

28. **AIR POLLUTION AND FUEL ECONOMY**

Vendor is to ensure compliance with applicable Federal air pollution control and fuel economy regulations, such as EPA regulations, "Control of Air Pollution from Mobile Sources," 40 CFR Part 85; EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 CFR Part 86; and EPA regulations, "Fuel Economy of Motor Vehicles," 40 CFR Part 600.

29. **TRAINING**

The Vendor shall have at its own expense one or more qualified instructor(s) who shall be available at the Recipient Agency(ies) property for up to 3 calendar days per month between the hours of 8:00 a.m. to 5:00 p.m. for one (1) month prior and 5 calendar days two (2) months after, acceptance of the first vehicle. Training must take place at each Recipient Agency's property. The dates will be mutually agreed upon. Instructors shall conduct schooling sessions during the beginning of this two month period which shall be designed to instruct the Recipient Agency's (ies) in-house driver training staff in proper and safe on-road operation of the vehicle, in operating characteristics and limitations of the vehicle, and identification and proper operation of all driver's controls. Instructors shall also, during the beginning of this period, conduct training sessions for maintenance instructors and qualified mechanics to give thorough and proper training in the maintenance and repair of all operating systems of the vehicle including: (1) power train, (2) electrical system, (3) heating, ventilation and air conditioning system, (4) braking and air system, and (5) wheelchair lift and securement systems. The Vendor shall also provide visual and other teaching aids for use by each Recipient Agency's (ies) own training staff.

30. **ADDITIONAL OPTIONS**

Additional options, at the dealer's cost, may be added at a later date. The successful vendor must provide documented proof of the dealer cost of the option at the time of the purchase order.

Any questions regarding this proposal should be addressed to:

**Buyer for Purchasing Division:
Frank Whittaker, Buyer
Building 15
2019 Washington Street, East
Charleston, WV 25305
PHONE: 304-558-2316
E Mail: Frank.M.Whittaker@wv.gov**

Notification of Federal Participation

Federal funding for this project is being provided by the Federal Transit administration through CFDA 20509, CFDA 20513, and CFDA 20500 for 80 % of the project cost.

ADA Compliant Lowered-Floor Minivan

1.0 GENERAL

1.1 Scope

Technical Specifications establishes requirements for a vehicle to provide specialized transportation services in an urban and suburban-rural environment, including hilly terrain and a severe winter operating climate.

The bid should be in a binder form with each section properly labeled with the required information attached to each section. Two (2) copies of the bid form shall be sent to the West Virginia Purchasing Division with One (1) clearly marked for the West Virginia Division of Public Transit.

1.2 Legal Requirements

The vehicle shall meet all applicable FMVSS, DMV, ADA, federal and state regulations in effect at the date of manufacture. The vendor shall comply with all applicable federal and state regulations in the manufacturing of the vehicles. **Vendor shall supply certification that vehicle meets all FMVSS Regulations.**

1.3 Components, Materials, Workmanship and Completeness

All units or parts not specified shall be manufacturer's best quality and shall conform in material, design or workmanship to the best practice known in the automotive industry. All parts shall be new and in no case will used, reconditioned or obsolete parts be accepted. The parts on all vehicles provided by the same manufacturer shall be interchangeable.

1.4 Motor Vehicle Standards Including Provisions Pertaining to Safety and Pollution

The vendor will provide certification at the time of delivery that vehicles comply with all relevant federal and State of West Virginia standards.

1.4.1 Motor Vehicle Safety

The motor vehicles furnished shall comply with applicable motor vehicle safety standards established by the U.S. Department of Transportation and the State of West Virginia.

1.4.2 Exhaust Emissions Control Requirements

The vehicles shall comply with all federal and state requirements applicable to the year of manufacture.

1.4.3 Noise Control

The exterior noise from the vehicle shall not exceed eighty-six (86) dba using the procedures set forth in the SAE Standard SAE J 366.

The interior noise at a location two (2) feet from the rear window and four (4) feet from the floor shall not exceed 86 dba with the vehicle standing with the transmission in neutral and the engine operating a maximum rated RPM.

1.5 Inspection Facilities

In order to comply with Part 4, 6.1 Inspection Stations, the manufacturer shall provide on its premises a suitable hoist for a complete inspection of the underside of the vehicle. This includes, but is not limited to, wiring and hosing runs, structural integrity, through floor securements, OEM defects and completeness, and coverage of the undercoating. **A pit is not acceptable.**

2.0 Capacity

This minivan shall be capable of carrying in one trip at least three (3) ambulatory adult forward-facing seated passengers and two (2) passengers seated in mobility aids, in addition to the driver. The vehicle is convertible to at least five (5) ambulatory passengers, plus the driver Braun 225 Fold-A-Way seat or Approved Equal. This minivan shall be made ADA compliant through a modification whereby the vehicle floor area is cut from the engine firewall to the rearmost passenger seat and lowered to meet minimum ADA door opening height requirement (56"). There shall be no modification to any portion of the vehicle roof in meeting the ADA door opening height requirement. A 30" usable clear width manual, 80-degree swing-away, fold-up mobility aid ramp is to be mounted vertically and inboard of the curbside sliding door, and two (2) mobility aid positions will be provided.

3.0 Chassis:

The model shall be a long wheelbase Dodge Grand Caravan or Approved Equal. Chassis must be equipped with Loan Leveling System or Approved Equal. Engine: 3.3 L, V-6, gasoline engine with electronic fuel injection or Approved Equal.

Stereo: Stereo shall be OEM AM/FM stereo with CD with factory installed speakers.

Transmission: 4-speed automatic, electronically controlled with overdrive or Approved Equal.

Radiator and Cooling system: Heaviest duty available, with coolant recovery system factory installed; 50-50 mixture of factory specified antifreeze and water.

Brakes: The vehicle shall be equipped with 4-wheel disc brakes and a factory Anti-Lock Brake System. Parking Brake: The vehicle shall be equipped with the factory OEM parking brake assemblies and dash warning light.

Tilt Wheel, Cruise control and Power Steering: The vehicle shall be provided with an OEM tilt steering wheel, cruise control, and OEM power steering.

Wheelbase: The minivan shall have a 121" minimum wheelbase or Approved Equal.

GVWR: The chassis shall offer a minimum GVWR of 6050 lbs.. The vehicle as converted shall not exceed the OEM chassis GVWR with 6 passengers.

4.0 Line Protection:

All metal and rubber fluid lines beneath the vehicle that are altered or exposed as a result of floor modification shall be secure and reasonably protected from road damage. Any fuel and brake line modification/alteration must be of OEM equivalent material or workmanship.

5.0 Replacement Fuel Tank:

Tank shall have a Twenty (20) gallon minimum capacity. Tank, fuel lines, and hardware must meet all current FMVSS, including FMVSS 301, as well as all current CARB and EPA requirements. Tank shall be calibrated with the OEM dash fuel gauge.

6.0 Suspension:

Vehicle will retain the complete OEM front strut suspension and components. Rear suspension must be capable for the payload identified. Spacers may be added to front and/or rear suspension to maintain ground clearance and ADA requirements. There must be a minimum of five (5) inches clearance between the break-over angle position of the vehicle exhaust pipe and level ground.

7.0 Wheels:

The minivan shall be equipped with four (4) Aluminum wheels, 16" minimum, or Approved Equal, and an OEM compact spare. Tires shall be steel belted radials, as provided by the OEM for the chassis specified. The spare tire shall mount inside the vehicle and be secured on an easily accessible carrier. Tire changing equipment, as provided by the OEM, shall include a jack of sufficient strength/capacity, and other tools necessary for changing the mounted tires, shall be stored in a compartment/container within the vehicle.

8.0 Electrical:

Each vehicle shall have a 12-volt electrical charging system as supplied from the OEM. All electrical wiring shall be automotive stranded copper, of sufficient gauge to handle the load, color-coded to match the OEM. All harnesses that are modified or added to the vehicle will be secured to the frame/body at a maximum of two feet intervals with insulated clamps. All exposed terminals and wiring

shall be protected from the elements using sealed terminals or heat shrink where necessary. Exposed wires will be wrapped or loomed in corrosion/moisture-resistant material.

Battery: Vehicle shall have the heaviest-duty available factory installed battery. Battery cables and connectors shall be OEM (600 cca, 12 volt maintenance free).

Alternator: Alternator shall be factory installed, heaviest duty available (125 amp minimum).

9.0 Front and Rear Heating and Air Conditioning:

An OEM heating/defrosting and air conditioning system with vents front and rear shall be provided. All lines and hoses shall be sufficiently fastened, protected, and insulated to ensure against wear from friction and the elements. The lines must be mechanically attached, with OEM clamps, to the vehicle structure at no greater than 18 inch intervals and must be routed so as not to be exposed to wheel spray and not pass within 2 inches of any part of the exhaust system. Conversion shall not impede access to front and rear air conditioning components.

10.0 Interior Lighting:

Overhead and lower lighting shall be installed in the interior center seat row of the vehicle that provides not less than two foot-candles of illumination at the entrance area. This system shall illuminate automatically when the vehicle front or sliding doors are open. All accessory vehicle lighting shall conform to ADA 49 CFR, Part 38, Subpart B.

11.0 Body Specifications:

Conversion of a minivan by modifying the existing, sidewalls, and floor, shall require the construction that maintains OEM structural equivalent. All metal components that are added shall be welded by qualified operators and made corrosion resistant through a commercial primer application or the use of stainless steel material.

Interior Height: Conversion shall provide a minimum clearance of 58" at the vehicle center of the interior roof.

Body Length: Chassis shall not exceed 204.3" in length.

Paint: The basic vehicle factory color shall be OEM standard white.

12.0 Sealant, Rustproofing, and Undercoating:

All exposed floor seams shall be sealed with a industrial grade butyl sealant or equivalent which conforms to ASTM C920. The entire surface of exterior lowered floor shall have a rust inhibiting coating, such as an epoxy primer base, applied to cover all welded areas, and then a fresh application of undercoating over the entire surface. Undercoating shall comply with current Federal and State flammability standards.

13.0 Passenger Doors and Stepwells:

The minivan shall have standard OEM driver and passenger front doors; one manual left side rear door (extended to floor level), and one manual right side mobility aid accessible rear door. The manual left side sliding door shall be OEM and extended to floor level to provide a minimum entry height of 56". This door shall be equipped with an interlock system so that the door cannot be opened from the inside or outside when fuel door is open. The manual right side mobility aid accessible entry door shall offer a minimum opening height of 56", a minimum usable width of 32 1/2", and a maximum of 10" floor-to-ground height. Door extensions shall be constructed of stainless steel. Both sliding doors shall have a mechanism to securely hold doors in open position when vehicle is on a hill.

Passenger Door Tracks: Sliding doors must have reinforced glides with an added stop brace to prevent doors from sliding off track. Door tracks shall be reinforced or strengthened beyond OEM standards as needed in all areas of contact with sliding door arms.

Sliding Passenger Door Arms/Brackets: Reinforcement of the sliding door components shall at a minimum be adequate to support the excess weight created by the door extensions. Under normal closure conditions, there should be no evidence of door track flexing or wobbling.

Door Locks: power programmable, includes lockout protection and delayed locking.

Rear Door Emergency Exit: The rear cargo door shall be provided with a quick release, manual override for opening the door from inside the vehicle. Capable of opening the door even if the door is locked. The vehicles override device shall be spring loaded and mounted on the inside of the rear door to prevent accidental release. A decal shall be provided showing operating instructions.

14.0 Interior Panels:

All interior panels shall be OEM or OEM equivalent. Panel fastening devices shall match the color of the panels. The interior shall provide a pleasant atmosphere, be aesthetically pleasing, and contain smooth finishes without any

unprotected sharp edges. The basic vehicle interior shall be gray. All interior panels shall meet FMVSS 302.

15.0 Ground Effects:

Exterior lower body panels shall be added to the vehicle on both the driver and passenger sides of the vehicle. Panels to be constructed of formed plastic and painted to match the exterior color of the vehicle.

16.0 Flooring:

Sub Floor: The interior floor shall be insulated with 3/8" marine grade plywood to provide a smooth surface for flooring attachment and to minimize interior noise.

Floor Covering Material: 2.2 mm thick commercial grade vinyl transit floor covering shall cover the entire floor surface. Flooring should also possess anti-skid properties (Rubber Solutions, Altro Transfloor or Approved Equal).

Floor Assembly: The lowered floor skin shall be constructed of 16 ga. Aluminized steel. The frame rails shall be made of 14 ga. formed channels; the floor shall be reinforced with 16 ga. formed channel cross ribs. The floor shall be lowered from the front firewall to just before the rear axle. The width of the floor shall extend from side doorsill to side doorsill. Mobility aid restraint tracks and seat locks shall be beveled, with no sharp edges and will protrude no more than 1/4" above floor surface.

17.0 Seats and Grab Handles:

All seats and restraints in the vehicle as specified must comply with current FMVSS standards.

Front Seats: The front passenger seat shall be OEM, matching the driver's seat. The seat base shall be adapted to permit easy roll out for mobility aid access/securement. The seat shall lock and unlock easily from the floor area.

Rear Seat: The rearmost passenger seat shall be the OEM rear bench seat, capable of comfortably accommodating two adult passengers, and is to be covered with OEM upholstery to match the driver and front passenger seats.

Passenger Restraint: Restraints shall be furnished for all passengers, consisting of shoulder seatbelts and/or lap belts. Each belt shall be equipped with an automatic retractor. Securement devices, both for ambulatory and mobility aid passengers, shall meet all State and Federal Standards.

Grab Handles: Grab handles shall be installed, OEM are acceptable.

18.0 Mobility Aid/Occupant Restraint Systems:

Each vehicle shall be equipped with one (1) Sure-Lok Titan AL712S-4C or Q-Straint QRT Deluxe securement and occupant restraint system with S-Hooks or Approve Equal. The system shall utilize flanged "L" continuous track, capable of securing a variety of common mobility aid designs and accommodate a wide range of occupant sizes. All attachment hardware and anchorages shall meet or exceed the 30 mph/20 Impact Test criteria per SAE J2249, 36 CFR Part 1192 and CFR Part 38, and all applicable Federal Motor Vehicle Safety Standards, as amended. Each securement position system shall consist of four (4) fully automatic, auto locking and self-tensioning retractors that shall automatically remove slack in the webbing after the wheelchair is secured. Retractors must attach to the structural frame of the mobility aid at four separate points and anchor into the track on the vehicle floor at four separate points. Each securement system shall have a corresponding occupant restraint system. The occupant restraint system shall consist of an adjustable lap and a shoulder belt and shall meet all applicable Federal Motor Vehicle Safety Standards.

19.0 Mobility Aid Ramp:

The vehicle shall be equipped with a manually operated, 80-degree swing-away mobility access ramp which stows vertically and folds and unfolds through the right side door. The fold and unfold motion of the ramp must be counter balanced so that the force exerted by the operator does not exceed 15 lbs. The installed ramp shall not obstruct the view of the driver through any vehicle window. The ramp shall have a minimum usable width of 30" and a slope meeting the requirements of ADA, 49 CFR. The ramp surface shall be continuous and made skid resistant through powder coating. It shall have no protrusions from the surface greater than 1/4" and shall accommodate both four-wheel and three-wheel mobility aids. The ramp shall have a rated capacity of 600 lbs, with a safety factor of at least three (3) based on the ultimate strength of the material. Each side of the ramp shall have protective barriers at least two (2) inches high to prevent mobility aids from rolling off of the ramp edge.

20.0 Control Interlock:

The ramp doors shall be interlocked with the vehicle emergency brake and transmission to ensure the vehicle cannot be moved when the ramp is deployed.

21.0 Exhaust:

The exhaust system shall be stainless steel and exit on the streetside of vehicle.

22.0 Altoona Bus Testing Report:

The converted minivan must have been submitted to the Altoona Bus Test Center for a 4 yr./100,000 mile Surface Transportation and Uniform Relocation Assistance Act (STURAA) test. Testing must have been completed on current body style being converted. A copy of the test report shall be made available to the State of West Virginia with bid.

23.0 Emergency/Safety Equipment

First Aid Kit: First-aid kit shall comply with Federal Motor Vehicle Carrier Safety Regulations Part 393(h), Section 393, Part 96(c), with a minimum of 15 units. First-aid kits shall be mounted so as to provide for easy access in the event of an accident, away from foot traffic.

Kit shall be housed in a plastic or metal box, which contains at least the following items:

- Instant Cold Pack (1)
- Certicaine Burn Spray (1 oz.)
- 1" x 3" Adhesive Bandages (25)
- ¾" x 3" Adhesive Bandages (10)
- Extra Large Adhesive Bandages (10)
- 3" x 3" Gauze Pads (10)
- Antiseptic Wipes (10)
- Alcohol Prep Pads (20)
- Ammonia Inhalants (10)
- 2" x 6 yds. Gauze Bandage
- ½" x 2.5 yds. Adhesive Tape
- Burn Ointment (1/8 oz.) (4)
- Insect Sting Swabs (4)
- PVP Iodine Swabs (4)
- Tweezers (1)
- Scissors (1)
- Safety Pins (5)

Fire Extinguisher: A 5 lb. dry chemical fire extinguisher with a minimum of a 20-A:180-B:C rating shall be provided in vehicle and shall be mounted in an access compartment with a hinged door or on a vehicular-type quick access bracket away from foot traffic.

Reflectors: Three bi-directional emergency reflective triangles conforming to requirements of FMVSS No. 125, Section 571.125 shall be secured in the storage compartment of the vehicle.

Bloodborne Pathogen Protection Kit: A 10 unit (minimum) kit housed in a polypropylene or metal box and containing at least the following items:

- Gown/Cap (1)
- Goggles (Eye Shield) (1)
- Mask (1)
- Sets of Gloves (3)
- Infectious Liquid Control Powder (2 oz.)
- Scraper (1)
- Red Bio-Hazard Bags with Ties (2)
- Crepe Towels (2)
- Antiseptic Towelettes (4)
- Disinfectant Towelette (4)
- Mouth to Mouth Barrier (1)
- Scoop Bag (3)

Seat Belt Cutter: A Tie Tech, Inc., Safecut Webbing Cutter, or approved equal, shall be secured in the storage compartment of the vehicle.

24.0 Painting and Finishing

24.1 Exterior Paint

Surfaces shall be properly cleaned and primed, as appropriate for the paint used. All exterior surfaces shall be impervious to gasoline and commercial cleaning agents. The exterior of each coach shall be painted in a basic white or light cream color as furnished by the chassis manufacturer.

One or more horizontal reflective decal stripes shall encircle the vehicle immediately below the window line. Finished surfaces shall not be damaged by controlled applications of commonly used graffiti-removing chemicals.

24.2 Paint Scheme

Paint schemes and paint colors of the agencies receiving the vehicles will be furnished to the successful Vendor.

Each agency will have a logo and striping scheme. Each agency's logo and striping scheme will have at least 2 colors, with the possibility of up to 5 colors.

The Vendor shall stripe the vehicle with exterior reflective vinyl tape meeting DOT-C2 standards, which match the agency's logo and striping scheme.

When reflective tape and paint are used for the same color on one vehicle, they **Must Match** (example painting the bus skirt and using tape for stripes on the side of the vehicle must match.)

25.0 Signage

The following internal and external signage is required. Lettering to be Helvetica Medium. Numbers to be 4 inches unless otherwise specified for external signage. **Colors of signs to be selected after award. Full details of size and location will be agreed upon between the Division of Public Transit and the successful bidder.**

25.1 Interior Decals:

- 1) "No Smoking" sign shall be installed on the driver modesty panel.
- 2) "All Passengers Are Required to Wear Seat Belts When Vehicle Is In Motion" sign shall be installed on the driver modesty panel.
- 3) "Clearance ___ feet _____ inches" above driver's visor. (These specific figures on clearance will be determined by exact dimensions of vehicle.)
- 4) Emergency Telephone Numbers
Police:
Ambulance:
Fire:
Transportation System:
- 5) Emergency Equipment sign shall be applied to the storage compartment above the driver's seat.
- 6) Priority Seating Decal: shall be supplied for the first two forward fixed facing seats on both sides.

25.2 Exterior Decals:

- 1) "This Vehicle Makes Frequent Stops" on the backdoor of the vehicle.
- 2) The International Wheelchair Accessibility
Location to be rear right bottom side under light above bumper.
- 3) "**WEST VIRGINIA TRANSIT ASSISTANCE PROGRAM**" paint scheme may be required on the exterior of the vehicle (see section 24)
- 4) "CAUTION: LOADING AND UNLOADING PASSENGERS"
- 5) "THIS VEHICLE STOPS AT ALL RAILROAD CROSSINGS"

26.0 Options

26.1 **OPTION 1: SECURITY CAMERA SYSTEM**

Provide and install REI Bus-Watch system with DBW4 80g hard drive, seat mounted security box with keys and two (2) color dome cameras per bus or Approved Equal. Locations of camera to be selected by the Division of Public Transit.

26.2 **OPTION 2: SECURITY CAMERA PLAYBACK SYSTEM**

Provide an REI Bus-Watch playback system with 2 extra 80g hard drives and a 17" color flat screen monitor or Approved Equal.

27.0 Manuals

The contractor shall furnish each transit system one (1) complete parts book and one (1) copies of maintenance manual for each model year vehicle, including wiring schematics of auxiliary circuits, and all other necessary prints for the maintenance of the vehicle and (1) one complete set of OEM Operations manual per transit system.

**ALL MANUALS MUST BE DELIVERED WITH VEHICLES. ORDER
MANUALS UPON RECEIVE OF ACTUAL PURCHASE ORDER.**

Price for each complete van: \$ _____ each 15 \$ _____

OPTION PAGE

OPTION 1:	SECURITY CAMERA SYSTEM	\$ _____ each	15	\$ _____
OPTION 2:	SECURITY CAMERA PLAYBACK SYSTEM	\$ _____ each	15	\$ _____

TOTAL FOR BID EVALUATION: \$ _____

NOTE: Unit pricing above must be firm and will be used for when awarding the contract for these items.

PART 3 WARRANTY

1.0 WARRANTIES

The Vendor has an obligation to ensure that the entire vehicle is covered by a warranty. The Vendor shall make every effort to assure that all obligations defined under all warranties applicable to the vehicle or any subpart of the vehicle are fulfilled.

2.0 WARRANTY REQUIREMENTS

Warranties in this document are in addition to any statutory remedies or warranties imposed on the Vendor. Consistent with this requirement the Vendor warrants and guarantees to the Division of Public Transit each complete vehicle, and specific subsystems and components as follows:

2.1 Complete Vehicle

The vehicle is warranted and guaranteed to be free from defects and related defects for a minimum of three (3) years or 36,000 miles, whichever comes first, beginning on the first day after the date of final acceptance of each vehicle. During this warranty period, the vehicle shall maintain its structural and functional integrity. The warranty is based on regular operation of the vehicle under the operating conditions prevailing in the Recipient Agency's(ies') locale(s).

2.2 Warranty of Basic Vehicle Structure

The Vendor shall warranty the frame and suspension members for a minimum of three (3) years or 36,000 miles, whichever comes first. This warranty shall not cover air bags, leveling valves, springs or other normal wearing parts. The Vendor is not liable for warranty if the Recipient Agency(ies) voids the warranty as outlined in Section 3.0 of this Part. If the frame or suspension fails or shows indication of imminent failure, the Recipient Agency(ies) will immediately notify the Vendor of said defect. Within ten (10) calendar days the Vendor will inform the Recipient Agency(ies) on how the Vendor will repair the vehicle. Repair of frame and suspension failures will be the responsibility of the Vendor. Within fifteen (15) calendar days from notification of the defect the Vendor shall begin the repair of the frame and suspension defects. If the vehicle with the reported frame and suspension defect is out of revenue service for more than twenty (20) calendar days because of the reported defect, the Vendor will have to either provide a substitute vehicle of equal seating capacity with wheelchair lift (if applicable) of the same age or newer than the vehicle with the defect or directly reimburse the Recipient Agency(ies) the cost of leasing a substitute vehicle. The maximum daily reimbursement will be \$300. The Vendor will have to continue to provide a substitute vehicle or reimburse the Recipient Agency(ies) until the defect is completely repaired.

2.2.1 Warranty Locations

A description of how and by whom warranty service is to be provided in four (4) areas of West Virginia is to be included in the bid proposal. The information should cover both mechanical and body work. All bidders shall provide vendors who will do the warranty of both chassis and body, including bus body, air conditioning and wheelchair lifts. The four warranty service areas of West Virginia include: The Northern Panhandle, Eastern Panhandle, Central West Virginia and Southern West Virginia.

2.3 Subsystems and Components

The subsystems and components are warranted and guaranteed to be free from defects and related defects as follows:

ENGINE: Minimum of three (3) years or 36,000 miles, whichever comes first or higher of the OEM.

TRANSMISSION: Minimum of three (3) years or 36,000 miles, whichever comes first or higher of the OEM.

DRIVE AXLE: Minimum of three (3) years or 36,000 miles, whichever comes first or higher of the OEM.

BRAKE SYSTEM: Excluding friction material, Minimum of three (3) years or 36,000 miles whichever comes first or higher of the OEM.

BASIC BODY STRUCTURE INTEGRITY: Minimum of three (3) years or 36,000 miles, whichever comes first or higher of the OEM.

AIR CONDITIONING SYSTEM: Two (2) years or two (2) operating seasons, whichever is greater or higher of the OEM.

WHEELCHAIR LIFT SYSTEM: Two (2) years or higher of the OEM.

ALL ADD ON COMPONENTS: Three(3) years, 36,000 or higher of the OEM.

It is recommended that the vendor supply a warranty grid on all components of the vehicle with the Bid.

3.0 VOIDING OF WARRANTY

The warranty shall not apply to any part or component of the vehicle that has been subject to misuse, negligence, accident, or that has been repaired or altered in any way so as to affect adversely its performance or reliability, except insofar as such repairs were in accordance with the Vendor's maintenance manuals and the workmanship was in accordance with recognized standards of the industry. The warranty shall also be void if the Recipient Agency(ies) fails to conduct normal inspections and scheduled preventative maintenance procedures as recommended in the Vendor's maintenance manuals.

4.0 EXCEPTIONS TO WARRANTY

The warranty shall not apply to scheduled maintenance items, and items such as tires and tubes, nor to items furnished by the Recipient Agency(ies) such as radios, fareboxes and other auxiliary equipment, except insofar as such equipment may be damaged by the failure of a part or component for which the Vendor is responsible.

5.0 DETECTION OF DEFECTS

If the Recipient Agency detects a defect within the warranty periods defined in Section 2.0 of this Part, it shall promptly notify the Vendor's representative five (5) working days after receipt of notification, the Vendor's representative shall either agree that the defect is in fact covered by warranty, or reserve judgment until the subsystem or component is inspected by the Vendor's representative or is removed and examined at the Recipient Agency's(ies') property or at the Vendor's plant. At that time, the status of warranty coverage on the subsystem or component shall be mutually resolved between the Recipient Agency and the Vendor. Work necessary to effect the repairs defined in Section 8.0 of this Part shall commence within ten (10) working days after receipt of notification by the Vendor.

6.0 SCOPE OF WARRANTY REPAIRS

When warranty repairs are required, the Recipient Agency(ies) and the Vendor's representative shall agree within five (5) days after notification on the most appropriate course for the repairs and the exact scope of the repairs to be performed under the warranty. If no agreement is obtained within the five (5) day period, the Recipient Agency(ies) reserves the right to commence the repairs in accordance with Section 8.0.

7.0. FLEET DEFECTS

A fleet defect shall be defined as the failure of any identical items covered by the warranty and the specifications herein, and occurring in a twenty percent (20%) portion of the vehicles purchased under this contract.

The Vendor shall correct a fleet defect under the warranty provision. After correcting defect, the Vendor shall promptly undertake and complete a work program reasonably designed to prevent the occurrence of the same defect in all other vehicles purchased under this contract. The work program shall include inspection and/or correction of the potential or defective parts in all of the vehicles purchased under this contract. The warranty on items determined to be fleet defects shall be extended for the time and/or miles of the original warranty. This extended warranty shall begin on the date of the repair/ replacement for the corrected item.

8.0 REPAIR PROCEDURES

8.1 Repair Performance

At its option, the Division of Public Transit, or its designated representative, may require the Vendor, or its designated representative, to perform warranty covered repairs that are clearly beyond the scope of Recipient Agency's(ies') capabilities. All warranty work done by Recipient Agency(ies) personnel will be reimbursed by the Vendor.

8.2 Repairs by Vendor

If the Recipient Agency(ies) requires the Vendor to perform warranty covered repairs, the Vendor's representative must begin the work necessary to make repairs, within ten (10) working days after receiving notification of a defect from the Recipient Agency(ies). The Recipient Agency(ies) shall make the vehicle available to complete repairs timely with the Vendor's repair schedule.

The Vendor will provide, at its own expense, all spare parts, tools and space required to complete repairs. At the Recipient Agency's(ies') option, the Vendor may be required to complete repairs. At Recipient Agency's(ies') option, the Vendor may be required to remove the vehicle from Recipient Agency's(ies') property while repairs are being effected. If the vehicle is removed from Recipient

Agency's(ies)' property, repair procedures must be diligently pursued by the Vendor's representative.

8.3 Repairs by Recipient Agency(ies)

8.3.1 Parts Used

If the Recipient Agency(ies) performs the warranty covered repairs, it shall correct or repair the defect and any related defects using Vendor specified spare parts available from its own stock or those supplied by the Vendor specifically for this repair. Monthly, or at a period to be mutually agreed upon, reports of all repairs covered by this warranty shall be submitted by the Recipient Agency(ies) to the Vendor for reimbursement or replacement of parts. The Vendor shall provide forms for these reports.

8.3.2 Vendor Supplied Parts

The Recipient Agency(ies) may request that the Vendor supply new parts for warranty covered repairs being performed by the Recipient Agency(ies). These parts shall be shipped prepaid to the Recipient Agency(ies) from any source selected by the Vendor within 10 (ten) working days of receipt of the request for said parts.

8.3.3 Defective Components Return

The Vendor may request that parts covered by the warranty be returned to the manufacturing plant. The total cost for this action shall be paid by the Vendor. Materials should be returned in accordance with Vendor's instructions.

8.3.4 Reimbursement for Labor

The Recipient Agency(ies) shall be reimbursed by the Vendor for labor. The amount shall be determined by multiplying the number of man-hours actually required to correct the defect by the current per hour, straight wage rate, plus 53 percent fringe benefits, plus the cost of towing in the vehicle if such action was necessary and if the vehicle was in the normal service area.

These wage and fringe benefit rates shall not exceed the rates in effect in the Recipient Agency(ies) service garage at the time the defect correction is made.

8.3.5 Reimbursement for Parts

The Recipient Agency(ies) shall be reimbursed by the Vendor for defective parts and for parts that must be replaced to correct the defect. The reimbursement shall be at the invoice cost of the part(s) at the time of repair and shall include taxes where applicable and 10 percent handling costs.

9.0 WARRANTY AFTER REPLACEMENT/REPAIRS

If any component, unit, or subsystem is rebuilt or replaced by the Vendor or by the Recipient Agency's(ies)' personnel, with the concurrence of the Vendor, the subsystem shall have the unexpired warranty period of the original subsystem.

PART 4 THE VENDOR'S IN-PLANT QUALITY ASSURANCE REQUIREMENTS

1.0 QUALITY ASSURANCE ORGANIZATION

The Vendor shall establish and maintain an effective quality assurance organization. It shall be a specifically defined organization and should respond directly to the Vendor's management. The Vendor's complete quality assurance program for purchased components and in-plant inspection procedures shall be available for review by the Division of Public Transit prior to award.

1.1 Control

The quality assurance organization shall exercise quality control over all phases of production from initiation of design through manufacture and preparation for delivery. The organization shall also control the quality of supplied articles.

1.2 Authority and Responsibility

The quality assurance organization shall have the authority and responsibility for reliability, quality control, inspection planning, establishment of the quality control system, and acceptance/rejection of materials and manufactured articles in the production of the vehicles.

2.0 QUALITY ASSURANCE ORGANIZATION FUNCTIONS

The quality assurance organization shall include the following minimum functions.

2.1 Work Instructions

The quality assurance organization shall verify inspection operation instructions to ascertain that the manufactured product meets all prescribed requirements.

2.2 Records Maintenance

The quality assurance organization shall maintain and use records and data essential to the effective operation of its program. These records and data shall be available for review by the resident inspectors. Inspection and test records for this procurement shall be available for a minimum of one (1) year after inspections and test are completed.

2.3 Corrective Actions

The quality assurance organization shall detect and promptly assure correction of any condition that may result in the production of defective vehicles. These conditions may occur in designs, purchases, manufacture, tests, or operations that culminate in defective supplies, facilities, technical data, or standards.

3.0 STANDARDS AND FACILITIES

3.1 Configuration Control

The Vendor shall maintain drawings and other documentation that completely describe a quality vehicle that meets all of the options and special requirements of this procurement. The quality assurance organization shall verify that each vehicle is manufactured in accordance with these controlled drawings and documentation.

3.2 Measuring and Testing Facilities

The Vendor shall provide and maintain the necessary gauges and other measuring and testing devices for use by the quality assurance organization to verify that the vehicles conform to all specification requirements. These devices shall be calibrated at established periods against certified measurement standards that have known valid relationships to national standards.

3.3 Production Tooling as Media of Inspection

When production jigs, fixtures, tooling masters patterns, and other devices are used as media of inspection, they shall be proved for accuracy at formally established intervals and adjusted, replaced, or repaired as required to maintain quality.

3.4 Equipment Use By Division of Public Transit's Inspector(s)

The Vendor's gauges and other measuring and testing devices shall be made available for use by the Division of Public Transit's inspector(s) to verify that the vehicles conform to all specification requirements. If necessary, the Vendor's personnel shall be made available to operate the devices and to verify their condition and accuracy.

4.0 CONTROL OF PURCHASES

The Vendor shall maintain quality control of purchases.

4.1 Supplier Control

The Vendor shall require that each supplier maintains a quality control program for the services and supplies that it provides. The Vendor's quality assurance organization shall inspect and test materials provided by suppliers for conformance to specification requirements. Materials that have been inspected, tested, and approved shall be identified as acceptable to the point of use in the manufacturing or assembly processes. Controls shall be established to prevent inadvertent use of non-conforming materials.

4.2 Purchasing Data

The Vendor shall verify that all applicable specification requirements are properly included or referenced in purchases of articles to be used on vehicles.

5.0 MANUFACTURING CONTROL

The Vendor shall ensure that all basic production operations, as well as all other processing and fabricating, are performed under controlled conditions, establishment of these controlled conditions shall be based on the documented work instructions, adequate production equipment, and special working environments if necessary.

5.1 Completed Items

A system for final inspection and test of completed vehicles shall be provided by the quality assurance organization. It shall measure the overall quality of each completed vehicle.

5.2 Non-conforming Materials

The quality assurance organization shall monitor the Vendor's system for controlling non-conforming materials. The system shall include procedures for identification, segregation, and disposition.

5.3 Statistical Techniques

Statistical analysis, tests, and other quality control procedures may be used when appropriate in the quality assurance processes.

5.4 Inspection Status

A system shall be maintained by the quality assurance organization for identifying the inspection status of components and completed vehicles. Identification may include cards, tags, or other normal quality control devices.

6.0 INSPECTION SYSTEM

The quality assurance organization shall establish, maintain, and periodically audit a fully documented inspection system. The system shall prescribe inspection and test of materials, work in progress and completed articles. At a minimum, it shall include the following controls.

6.1 Inspection Stations

Inspection stations shall be at the best locations to provide for the work content and characteristics to be inspected. Stations shall provide the facilities and equipment to inspect structural, electrical, hydraulic, and other components and assemblies for compliance with the design requirements.

Stations shall also be at the best locations to inspect or test characteristics before they are concealed by subsequent fabrication or assembly operations. These locations shall minimally include, as practicable, underbody structure completion, body framing completion, body prior to paint preparation, water test before interior trim and insulation installation, engine installation completion, underbody dress-up and completion, vehicle prior to final paint touch up, vehicle prior to road test, and vehicle final road test completion.

6.2 Inspection Personnel

Sufficiently trained inspectors shall be used to ensure that all materials, components, and assemblies are inspected for conformance with the qualified vehicle design.

6.3 Inspection Records

Acceptance, rework, or rejection identification shall be attached to inspected articles. Articles that have been accepted as a result of approved materials review actions shall be identified. Articles that have been reworked to specified drawing configurations shall not require special identification. Articles rejected as unsuitable or scrap shall be plainly marked and controlled to prevent installation on the vehicle. Articles that become obsolete as a result of engineering changes for other actions shall be controlled to prevent unauthorized assembly or installation. Unusable articles shall be isolated and then scrapped.

Discrepancies noted by the Vendor or Division of Public Transit's inspector during assembly shall be entered by the inspection personnel on a record that accompanies the major component, subassembly, or vehicle from start of assembly through final inspection. Actions shall be taken to correct discrepancies or deficiencies in the manufacturing processes, procedures, or other conditions that cause articles to be in nonconformity with the requirements of the contract specifications. The inspection personnel shall verify the corrective actions and mark the discrepancy record. If discrepancies cannot be corrected by replacing the non-conforming materials, the Division of Public Transit shall approve the modification, repair, or method of correction to the extent that the contract specifications are affected.

6.4 Quality Assurance Audits

The quality assurance organization shall establish and maintain a quality control audit program. Records of this program shall be subject to review by the Division of Public Transit.

6.5 Division of Public Transit's Inspector(s)

The Division of Public Transit may be represented at the Vendor's plant by their inspectors, they shall monitor, in the Vendor's plant, the manufacture of vehicles built under this procurement. The Division of Public Transit's inspectors shall be authorized to release the vehicles for delivery. Upon request to the quality assurance supervisor, inspectors shall have access to the Vendor's quality assurance files related to this procurement. These files shall include drawings, material standards, parts lists, inspection processing and reports, and records of defects. The presence of these inspectors in the plant shall not relieve the Vendor of its responsibility to meet all of the requirements of this procurement.

The Division of Public Transit's inspectors shall not have the authority to stop the Vendor's production line until any apparent problem area of major significance that arises to warrant such actions is fully discussed with the Vendor's top management.

7.0 ACCEPTANCE TESTS

7.1 Responsibility

Fully-documented tests shall be conducted on each production vehicle following manufacture to determine its acceptance to the Division of Public Transit. These acceptance tests shall include pre-delivery inspections and testing by the Division of Public Transit after the vehicles have been delivered.

7.2 Pre-Delivery Tests

The Vendor shall conduct acceptance tests at its plant on each vehicle following completion of manufacture and before delivery to the Division of Public Transit. These pre-delivery tests shall include visual and measured inspections, as well as testing the total vehicle operation. The tests shall be documented. Additional tests may be conducted at the Vendor's discretion to ensure that the completed vehicles have attained the desired quality and have met the requirements of Part 2: Technical Specifications. This additional testing shall be recorded on appropriate test forms provided by the Vendor.

The pre-delivery tests will be scheduled and conducted with sufficient notice so that they may be witnessed by the resident inspectors, who may accept or reject the results of the tests. The results of pre-delivery tests, and any other tests, will be filed with the assembly inspection records for each vehicle. The under-floor equipment will be made available for inspection by the resident inspectors, using a hoist. A scaffold, or elevated platform will be provided by the Vendors to easily and safely inspect vehicle roofs. Delivery of each vehicle will require written authorization of a resident inspector. Authorization forms for the release of each vehicle for delivery will be provided by the Vendor. An executed copy of the authorization will accompany the delivery of each vehicle.

7.3 Inspection - Visual and Measured

Visual and measured inspections shall be conducted with the vehicle in a static condition. The purpose of the inspection testing is to verify overall dimensional and weight requirements, to verify that required components are included and are ready for operation, and to verify that components

and subsystems that are designed to operate with the vehicle in a static condition do function as designed.

7.4 Total Vehicle Operation

Total vehicle operations shall be evaluated during road tests. The purpose of the road tests is to observe and verify the operation of the vehicle as a system and to verify the functional operation of the subsystem that can be operated only while the vehicle is in motion.

Each vehicle shall be driven for a minimum of 15 miles during the road tests. Observed defects shall be recorded on the test forms. The vehicle shall be retest when defects are corrected and adjustments are made. This process shall continue until defects or required adjustments are no longer detected. Results shall be pass/fail for these vehicle operation tests.

7.5 Post-Delivery Tests

The Division of Public Transit may conduct acceptance tests on each delivered vehicle. These tests shall be completed within 15 days after vehicle delivery. The purpose of these tests is to identify defects that have become apparent between the time of vehicle release and delivery to the Division of Public Transit. The post-delivery tests shall include visual inspection and vehicle operations.

Vehicles that fail to pass the post-delivery tests are subject to non-acceptance. The Division of Public Transit shall record details of all defects and shall notify the Vendor of non-acceptance of each vehicle within 5 days after completion of the tests.

7.6 Vehicle Operation

The road tests for total vehicle operation are similar to those conducted at the Vendor's plant. Operational deficiencies of each vehicle shall be identified and recorded.

PART 5 REQUIRED BID FORMS

The following certifications must be properly **completed and furnished by the bidder as part of the bid**. Failure to submit any of these certifications **shall** deem the bid **non-responsive**.

BID FORM #1

Location(s) of the Technical Service Representative(s) and parts distribution center(s) in the State of West Virginia.

Location(s) of the technical service representative(s).

Name: _____

Address: _____

Telephone: _____

Location(s) of parts distribution center(s).

Name: _____

Address: _____

Telephone: _____

BID FORM #2

CERTIFICATION FOR AIR POLLUTION

Pursuant to Section 8.4 of Part 1 of the Procurement, the Vendor certifies that the vehicles proposed:

ARE or ARE NOT (specify one) in compliance with the regulations in 40 CFR Part 85, 40 CFR Part 86, 40 CFR Part 600 and the air pollution criteria established by the Environmental Protection Agency of the United States Government.

Date

Authorized Signature

Title

Company Name

BID FORM #3

DISADVANTAGED BUSINESS ENTERPRISE
VENDORS/ MANUFACTURERS CERTIFICATION

(Check appropriate statement)

_____ The Vendor, if a transit vehicle manufacturer, hereby certifies that it has complied with the requirements of 49 CFR Section 26.49 by submitting an annual DBE goal to the Federal Transit Administration (FTA). The goal has either been approved or not disapproved by FTA.

_____ The Vendor, if a non-manufacturing supplier, hereby certifies that the manufacturer of the transit vehicle to be supplied has complied with the above-referenced requirement of 49 CFR Section 26.49.

Date

Authorized Signature

Title

Company Name

BID FORM #4

**BUY AMERICA CERTIFICATION
ROLLING STOCK**

Certificate of Compliance

The bidder or offeror hereby certifies that it will comply with the requirements of section 165(b)(3), of the Surface Transportation Assistance Act of 1982, as amended, and the applicable regulations of 49 CFR 661.11:

Date

Authorized Signature

Company Name

Name

Title

Certificate for Non-Compliance

The bidder or offeror hereby certifies that it cannot comply with the requirements of section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirement consistent with section 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and the applicable regulations in 49 CFR 661.7.

Date

Authorized Signature

Company Name

Name

Title

BID FORM #5

**FEDERAL MOTOR VEHICLE
SAFETY STANDARDS CERTIFICATION**

The vendor hereby certifies that it shall submit, as required by Title 49 of the CFR, Part 663 - Subpart D, it's self-certification information stating that the vehicle(s) will comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Part 571.

Date

Authorized Signature

Title

Company Name

BID FORM #6

_____ hereby certifies that it **IS** or **IS NOT** (specify one) included on the U.S. Comptroller General's Consolidated List of Persons or Firms Currently Debarred for Violations of Various Public Contracts Incorporating Labor Standards Provisions.

Date

Authorized Signature

Title

Company Name

BID FORM #6-A

**CERTIFICATION OF PRIMARY PARTICIPANT REGARDING
DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The Primary Participant (applicant for an FTA grant or cooperative agreement, or potential contractor for a major third party contract),

_____ (COMPANY NAME) certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

If the primary participant (applicant for an FTA grant, or cooperative agreement, or potential third party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.)

THE PRIMARY PARTICIPANT (APPLICANT FOR AN FTA GRANT OR COOPERATIVE AGREEMENT, OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT),

_____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

BID FORM #7

**VENDOR'S CERTIFICATION OF
UNDERSTANDING AND ACCEPTANCE**

The Vendor hereby certifies that all Technical Specifications and Contract Terms and Conditions have been carefully reviewed, are fully understood and shall be adhered to in performance and completion of any contract resulting from this bid.

Date

Authorized Signature

Title

Company Name

SPECIFICATION COMPLIANCE

NOTE: Please check if what is offered is in exact compliance with specifications. Any discrepancies must be listed as an attachment to the bid proposal. Exact dimensions and/or descriptions must be provided as a part of the Vendor's bid proposal when submitted.

_____ Bid proposal submitted meets and/or exceeds all specification requirements.

_____ Bid proposal submitted contains deviations from specification requirements. Detailed descriptions of these deviations have been provided with this bid proposal.

BID FORM #8

**CERTIFICATION OF COMPLIANCE WITH FTA'S
BUS TESTING REQUIREMENTS**

The undersigned (Vendor/Manufacturer) certifies that the vehicle offered in this procurement complies with 49 U.S.C. § 5318(e) and FTA's implementing regulation at 49 CFR Part 665.

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

Date

Authorized Signature

Title

Company Name

BID FORM #9

CERTIFICATION OF RESTRICTIONS ON LOBBYING

The undersigned (Vendor, Contractor) certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. [as amended by "Government Wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. [Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Vendor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Vendor understands and agrees that the provisions of 31 U.S.C. § 3801, et seq., apply to this certification and disclosure, if any.

Date

Authorized Signature

Title

BID FORM #10

ADDENDUM ACKNOWLEDGMENT

I hereby acknowledge receipt of the following checked addendum(s) and have made the necessary revisions to my proposal, plans and/or specifications, etc.

Addendum No.'s:

No. 1 _____

No. 2 _____

No. 3 _____

No. 4 _____

No. 5 _____

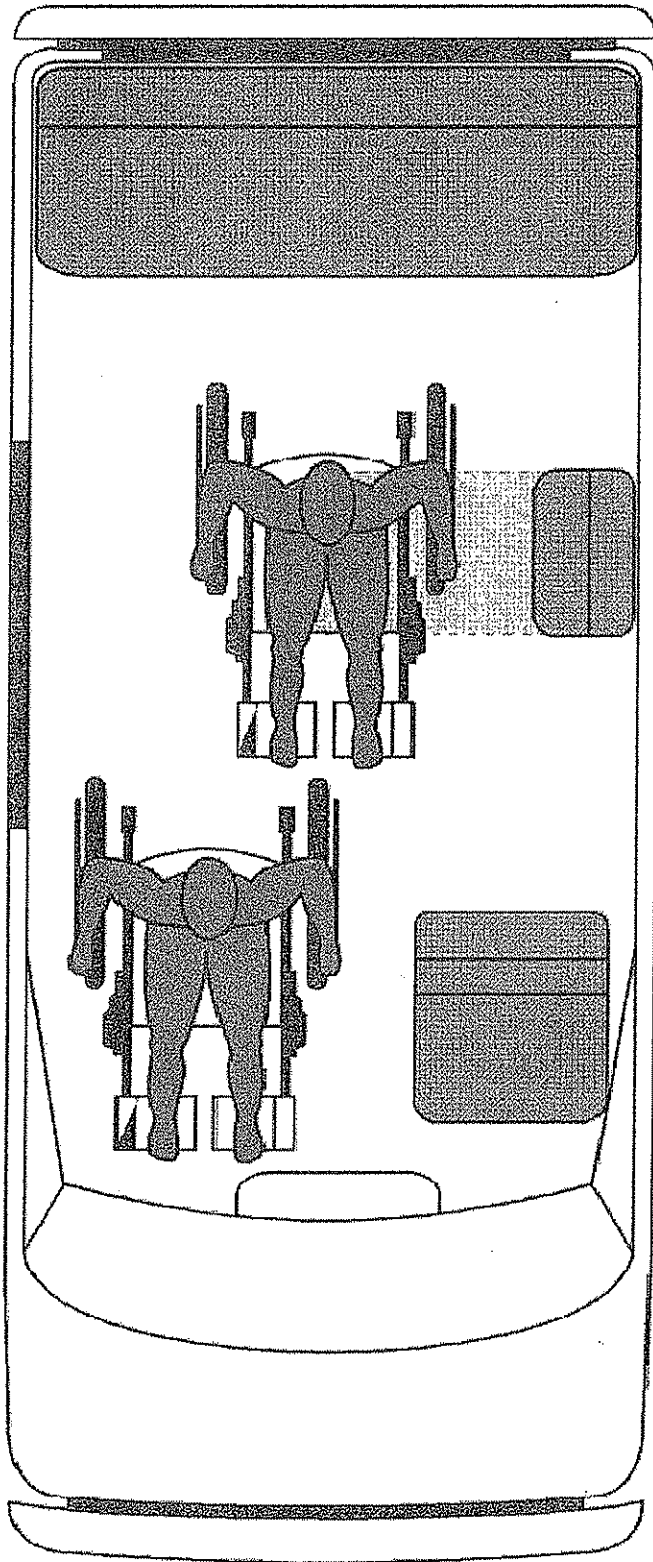
I understand that failure to confirm the receipt of the addendum(s) is cause for rejection of bids.

Signature

Company

Date

PART 6 SEATING DIAGRAMS



RFQ No. _____

STATE OF WEST VIRGINIA
Purchasing Division
PURCHASING AFFIDAVIT

VENDOR OWING A DEBT TO THE STATE:

West Virginia Code §5A-3-10a provides that: No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars in the aggregate.

PUBLIC IMPROVEMENT CONTRACTS & DRUG-FREE WORKPLACE ACT:

If this is a solicitation for a public improvement construction contract, the vendor, by its signature below, affirms that it has a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the *West Virginia Code*. The vendor must make said affirmation with its bid submission. Further, public improvement construction contract may not be awarded to a vendor who does not have a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the *West Virginia Code* and who has not submitted that plan to the appropriate contracting authority in timely fashion. For a vendor who is a subcontractor, compliance with Section 5, Article 1D, Chapter 21 of the *West Virginia Code* may take place before their work on the public improvement is begun.

ANTITRUST:

In submitting a bid to any agency for the state of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will convey, sell, assign or transfer to the state of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the state of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the state of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership or person or entity submitting a bid for the same materials, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

LICENSING:

Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

CONFIDENTIALITY:

The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.

Under penalty of law for false swearing (*West Virginia Code* §61-5-3), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

Vendor's Name: _____

Authorized Signature: _____ Date: _____