

INSTRUCTIONS AND CONDITIONS FOR PROPOSAL SUBMITTAL

PROPOSAL NUMBER 2012-04

PROPOSAL SUBMITTAL AND DUE DATE

Cost must be submitted on your own form. Place the Cost form in a sealed envelope within your proposal package.

All envelopes must be sealed and marked "Request for Proposal – Website Redesign"

The B.M.T.A. is not responsible for any proposal not marked as such. Return proposal to

Bay Metropolitan Transportation Authority
1510 North Johnson Street
Bay City, MI 48708

The deadline for submitting proposal is 2:00 PM Local Time, on Thursday, May 10, 2012, at which time proposals will be opened. *Under Federal Transit Administration regulations, the opening is not open to the public.* Proposals received after that time will not be considered for award or opened. FAXED PROPOSALS ARE NOT ACCEPTABLE.

Procurement Schedule

The following schedule represents B.M.T.A.'s commitment to expedite this procurement.

<u>Friday, March 30</u> , 2012	Potential offerors provided with specifications.
<u>Friday, March 30</u> 2012	RFP Advertised on BMT web site and Bay City Democrat
<u>Wednesday, April 11 10am</u> , 2012	Pre Proposal meeting
<u>Thursday, May 10</u> , 2012	Proposals opened (<i>Not open to the public</i>)-2:00PM.
<u>Wednesday, May 16</u> , 2012	Recommendation for contract award presented to B.M.T.A.'s Board of Directors for approval or disapproval.

The BMTA and the successful offeror shall mutually agree when it is necessary to make changes in, additions to, or deductions from the work performed or the material to be furnished, pursuant to the provisions of the contract documents.

CONDITIONAL BID OR PROPOSAL

Conditional bids or proposals, or those which take exception to the specifications, will be considered non-responsive and may be rejected unless specific approval from BMTA is requested in writing by the bid or proposal at least 10 days prior to bid or proposal due date. All other eligible bidders or offerors are to be notified of any approved exceptions to the specifications.

APPROVED EQUALS AND DEVIATIONS FROM SPECIFICATIONS:

If the offeror or bidder proposes to submit a proposal or bid containing “approved equals” or “deviations” from the specific requirements of these specifications, the offeror or bidder must obtain such approval, confirmed in writing, prior to the date of bid or proposal opening.

Requests for “approved equals” and clarification must be received by the B.M.T.A. in writing no less than 10 days before date of bid or proposal opening. Any request for approved equal 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, the specification requirements. Any unapproved deviations, exceptions, substitutions, alternates, or conditional qualifications contained in a bid or proposal may be cause for its rejection.

The BMTA reserves the right to postpone the bid or proposal opening or receipt of bids or proposals for its own convenience.

Changes to the specifications will be made by addendum only and issued by the BMTA’s Purchasing Agent in writing.

Prime Contractors and subcontractors may make appointments to discuss project specifications. This, however, does not relieve them from providing written documented requests.

Request for approved equal (if required) or clarification of specifications by a bidder or offeror must be received in writing by the BMTA’s Purchasing Agent not less than ten (10) working days before the date of the scheduled bid or proposal opening or closing date for receipt of bids or proposals. All requests for approved equals or clarification of specifications should be addressed to:

ATT'N: Purchasing Agent
Bay Metropolitan Transportation Authority
1510 N. Johnson Street
Bay City, MI 48708

The BMTA's Purchasing Agent shall reply to all requests for approved equals or clarification of specifications within eight (8) days after receipt of the request. A copy of the response shall be sent to the requestor and all contractors and subcontractors who requested a copy of the original solicitation.

PROTEST PROCEDURE

Protest of restrictive specifications or improprieties in the solicitation, by an interested party, must be received by BMTA's General Manager in writing not less than ten (10) working days before the date of the scheduled bid or proposal opening or closing date for receipt of bids or proposals. [An "interested party" is defined as any bidder or offeror, or subcontractor or supplier, provided they have a substantial economic interest in a portion of the RFB or RFP in question.] All protests should be hand-delivered, or sent via registered or express mail, to:

ATTN: General Manager
Bay Metropolitan Transportation Authority
1510 N. Johnson Street
Bay City, MI 48708

Any protest of the specifications shall state the name of the submitter/protestor, a description of the project or solicitation number, and a statement of grounds for the protest. If any of the information is omitted or incomplete, BMTA will notify the protestor immediately in writing that the specified information must be submitted within a specified time period if the protest is to be further considered.

Upon receipt of a written protest BMTA shall immediately determine if the date for the bid or proposal opening or closing date for receipt of bids or proposals should be postponed. If the bid or proposal opening or bid or proposal closing date is postponed, BMTA will contact all contractors and subcontractors who were furnished a copy of the specifications by BMTA that an appeal has been filed and that the bid or proposal opening or receipt of bids or proposals is postponed until a decision has been issued. Notice of the postponement will be made in writing by addendum.

Representatives of the BMTA and the protestor shall meet within twenty-four (24) hours after BMTA's receipt of the protest, or at a mutually agreed-upon time, to discuss all substantive issues raised in the protest. Upon completion of discussions between the BMTA and the protestor, the BMTA's General Manager will transmit a final decision in writing to the protestor within five (5) working days. The final decision will address, in detail, each substantive issue raised in the protest. If the written decision cannot be issued within this time period, the protestor will be notified in writing of the time extension. Upon issuance of the written decision, the BMTA will then issue appropriate addenda to cover any changes to the RFP or RFB or extension of bid or proposal due date, if required.

Protests by any adversely affected person for reasons other than for restrictive specifications or alleged improprieties in the solicitation must be made in writing and received by BMTA's General Manager not more than seventy-two (72) hours after announcement of award to the participating bidders or offerors. Upon receipt of a protest after contract award, the BMTA shall immediately determine if work on the protested project should be suspended until such time as the protest is resolved.

Representatives of BMTA and the protestor shall meet within twenty-four (24) hours after receipt of the protest, or at such time as mutually agreed to by both

parties to discuss the protest. Upon completion of discussions between BMTA representatives and the protester, BMTA will issue a written decision to the protester within five (5) working days. If the written decision cannot be issued within this time period, the protester will be notified in writing of the time extension.

Except as noted below, BMTA will not open bids or proposals, receive bids or proposals or award a contract if a formal written protest has been received and no final decision in response to it has been issued by BMTA's General Manager. After the issuance of a final decision, BMTA will wait a minimum of five (5) working days before opening bids or proposals or before awarding a contract for a project.

BMTA may open bids or proposals, receive bids or proposals, and award a contract for a project while a protest is pending final disposition if BMTA's General Manager determines that:

- (1) The items to be procured are urgently required;
- (2) Delivery or performance will be unduly delayed by failure to make an award promptly; or
- (3) Failure to make a prompt award will otherwise cause undue harm to the BMTA or the Federal Government

A protestor may request reconsideration after a final decision has been issued by BMTA's General Manager, if new data or information becomes available that was not previously known, or there has been an error of law or regulation.

The provisions of FTA Circular 4220.1F (11/1/08), are hereby incorporated and made part of the rules of the BMTA. Protests to the FTA by a protestor must be made in accordance with FTA Circular 4220.1F. The FTA will only consider a protest that alleges failure of the BMTA to have or follow its protest procedures, or its failure to review a complaint or protest. An appeal to the FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester knew or should have known of the violation.

Violations of Federal law or regulation will be handled by the complaint process stated within that law or regulation. Violations of State or local law or regulations are under the jurisdiction of State or local authorities.

Any appeal or protest may be withdrawn at any time.

WITHDRAWAL OF BIDS OR PROPOSALS:

Bids or proposals may be withdrawn upon written request received by BMTA prior to the time fixed for bid or proposal due date. No bid or proposal may be withdrawn for a period of sixty (75) days after the time set herein for bid or proposal due date.

BID OR PROPOSAL ACCEPTANCE OR REJECTION:

BMTA reserves the right to accept any bids or proposals, or to reject any or all bids or proposals or postpone bid or proposal due date or to contract on such basis as BMTA deems to be in its best interest.

BASIS OF AWARD:

The successful offeror shall be the one which is most advantageous to Bay Metro Transit's own best interests which will be based on criteria listed in the proposal specifications. Fee will be considered but will not be the most important item.

All required certificates must be included with the bid or proposal in order for the bid or proposal to be considered responsive.

SINGLE BID OR PROPOSAL:

In the event a single bid or proposal is received, BMTA will conduct a price and/or cost analysis of the bid or proposal. A price analysis is the process of examining the bid or proposal and evaluating the separate cost elements. It should be recognized that a price analysis, through comparison with other similar procurements, must be based on an established or competitive price of the elements used in the comparison.

The comparison must be made to a purchase of similar quantity and quality, involving similar specifications. Where a difference exists, a detailed analysis must be made of this difference and costs attached thereto.

Where it is impossible to obtain a valid price analysis, it may be necessary for BMTA to conduct a cost analysis of the bid or proposal price.

LIMITATIONS:

This "Invitation to Bid" or "Request For Proposal" does not commit BMTA to award a contract, to pay any cost incurred in the preparation of a bid or proposal to this "Invitation to Bid" or "Request For Proposal" to negotiate with all qualified bidders or offerors, or to preclude BMTA from canceling, in part or in its entirety, this "Invitation to Bid" or "Request For Proposal" if it is in the best interest of BMTA.

CONTRACT DOCUMENTS:

The Contract Documents consist of the "Invitation to Bid" or "Request for Proposal" and all Sections and Appendixes of these specifications.

BID OR PROPOSAL AS CONTRACT:

Each bid or proposal will be submitted with the understanding that acceptance in writing by BMTA of the offer to furnish the equipment or services described therein shall constitute a contract between the successful bidder or offeror and BMTA which shall bind the bidder or offeror to furnish and deliver the equipment or services at the bid or proposal price in accordance with the bid or proposal specifications, general conditions and general requirements detailed in the bid or proposal specification package or subsequently added or made a part thereof.

BID OR PROPOSAL DISCLOSURE:

All information on a submitter's bid or proposal, except proprietary financial information and responsibility, is subject to disclosure under the provisions of Public Act NO. 442 of 1976 known as the "Freedom of Information Act". This act also provides for the complete disclosure of contracts and attachments thereto.

Bids or proposals may be inspected at the office of the Purchasing Agent after award is completed. Inspections will be during office hours and within specified time limits as directed by the Purchasing Agent.

Information available for inspection shall include the tabulated price bids and copies of the bid or proposal documents subject to the exceptions listed above and proprietary legal constraints.

POINT OF CONTACT:

All communications, contracted items, contracts, documentation submittals, and correspondence shall take place between the bidder or offeror and the BMTA's Purchasing Agent, Bay Metropolitan Transportation Authority, 1510 North Johnson Street, Bay City, MI 48708. FAX (989) 894-2621.

Telephone contact with the BMTA's Purchasing Agent can be made at (989) 894-2900 extension 1205, Monday through Friday, between the hours of 8:00 a.m. and 5:00 PM.

TERMINATION

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

Termination for Default [Breach or Cause] (General Provision): If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services and the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, Bay Metro Transit may terminate this contract for default. Termination shall be effected by serving a notice of termination on the Contractor setting for the manner in which the contractor is in default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by Bay Metro Transit, that the Contractor had an excusable reason for not performing, such as a strike, fire or flood, events which are not the fault of or are beyond the control of the Contractor, Bay Metro Transit, after setting up a new delivery of performance schedule, may allow the Contractor to continue work.

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

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

If, after termination for failure to fulfill contract obligation, it is determined that the Contractor was not in default, or if, after serving a Notice of Termination for

default, Bay Metro Transit determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the Contractor, Bay Metro Transit, after setting up a new work schedule, may allow the Contractor to continue work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor or if the Contractor, within five (5) calendar days from the beginning of any delay, notifies Bay Metro Transit in writing of the causes of delay. If in the judgment of Bay Metro Transit, the delay is excusable the time for completing the work shall be extended. The judgment of the Bay Metro Transit shall be final and conclusive on the parties, but subject to appeal under the Protest Procedure.

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

Opportunity to Cure (General Provision): Bay Metro Transit in its sole discretion may, in the case of a termination for breach or default, allow the Contractor five (5) working days in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions.

If the Contractor fails to remedy to Bay Metro Transit's satisfaction the breach or default or any of the terms, covenants or conditions of the Contract within five (5) working days after receipt by the Contractor or written notice from Bay Metro Transit setting forth the nature of said breach or default, Bay Metro Transit shall have the right to terminate the Contract without any further obligation to the Contractor. Any such termination for default shall not in any way operate to preclude Bay Metro Transit from also pursuing all available remedies against the Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach: In the event that Bay Metro Transit elects to waive its remedies for any breach by the Contractor of any covenant, term or condition of this Contract, such waiver by Bay Metro Transit shall not limit Bay

Metro Transit's remedies for and succeeding breach of that or any other term, covenant, or condition of this Contract.

Termination for Convenience or Default (Architect and Engineering) Bay Metro Transit may terminate this contract in whole or in part, for Bay Metro Transit's convenience or because of the failure of the Contractor to fulfill the contract obligations. Bay Metro Transit shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

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

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

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

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

If the termination is for the convenience of Bay Metro Transit, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, Bay Metro Transit determines

that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor Bay Metro Transit, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

PROMPT PAYMENT TO SUBCONTRACTORS

Prime Contractors are to make payment to their Subcontractors, for satisfactory performance of their contracts, within thirty (30) days of the Prime Contractor receiving payment from Bay Metro Transit.

Contract Assurance

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

Retainage

The prime contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractors 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 BMTA. This clause applies to both DBE and non-DBE subcontracts.

Monitoring and Enforcement

BMTA will monitor and enforce prompt payment from prime contractors to subcontractors by making it mandatory that the prime contractor notifies us in writing that the subcontractor has been paid. This notification must be made within 30 days of the satisfactory work being completed. If the prime contractor fails to notify BMTA in writing of payment being made to subcontractor this will bar the prime contractor from bidding on future solicitations

ACCESS TO RECORDS

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
4. FTA does not require the inclusion of these requirements in subcontracts.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

- (1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- (2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- (3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

PROHIBITION OF DISCRIMINATION IN FEDERAL CONTRACTS

The Bay Metropolitan Transportation Authority hereby notifies its Contractors and their subcontractors of the federal equal opportunity requirements specified in Title 41 CFR Chapter 60-1.4.

- I. During the performance of this contract, the Contractor agrees as follows:
 - (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed and the employees are treated, during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for

- training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
 - (3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
 - (5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
 - (6) In the event of the Contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive order 11246 of September 24, 1965, or by rules, regulations or orders of the Secretary of Labor, or as otherwise provided by law.
 - (7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of

enforcing such provisions including sanctions for noncompliance: provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

II. REPORTING REQUIREMENTS

Contractors/consultants required to file EEO Reports and other EEO information with the Federal Government are those who:

- (a) have 50 or more employees; and
- (b) are prime Contractor or subcontractor; and
- (c) have a contract, subcontract or purchase order amounting to \$50,000 or more.

If your firm meets the "Reporting Requirements," sign below stating that your firm agrees to the conditions described in "Prohibition of Discrimination in Federal Contracts."

Authorized Signee

Title

Date

PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract, the Contractor agrees as follows:

- (1) In accordance with Act No. 453, Public Acts of 1976, the Contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. Breach of this covenant may be regarded as a material breach of this contract.
- (2) The Contractor hereby agrees that any and all subcontractors to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as herein before set forth in Section 1 of the Appendix.
- (3) The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated, during employment, without regard to their race, color, religion, national origin, age, sex, height, weight, or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.
- (4) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, or marital status.
- (5) The Contractor or his collective bargaining representative will send to each labor union representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this Appendix.
- (6) The Contractor will comply with all relevant published rules, regulations, directives and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids or proposals for any individual state project.
- (7) The Contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program and employment statistics of each subcontractor as well

as the Contractor himself, and said Contractor will permit access to his books, records and accounts by the Michigan Civil Rights Commission and/or its agent, for purpose of investigation to ascertain compliance with this contract and relevance with rules, regulations and orders of the Michigan Civil Rights Commission.

- (8) In the event that the Michigan Civil Rights commission finds, after a hearing held pursuant to its rules, that a Contractor has not complied with the contractual obligations under this agreement, the Michigan Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the Contractor ineligible for future contracts with the state and its political and civil subdivisions, departments and officers, and including the governing boards of institutions of higher education, until the Contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the Contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.
- (9) The Contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

Authorized Signee

Title

Date

Access Requirements for Persons with Disabilities. (ADA)

The Contractor agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires the provision of accessible facilities and services, and with the following Federal regulations, including any amendments thereto:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (6) U.S. GSA regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
- (9) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609.
- (10) Any implementing requirements FTA may issue.

Fly America

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

ENERGY CONSERVATION REQUIREMENTS

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

Final authorization of a "Change Order" must be approved by the General Manager, or by the Board of Directors if the cost of the "Change Order" is \$5,000 or more.

FEDERAL CHANGES

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA (2) dated October, 1995) between Purchaser and the FTA , as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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

Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, 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 Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Bay Metro Transit requests which would cause Bay Metro Transit to be in violation of the FTA terms and conditions.

ETHICS IN PURCHASING AND CONTRACTING

- A. The goal of this policy is to guarantee the fairness and impartiality of BMTA procurements and contracts, and to comply with laws governing this matter, in particular, Michigan Public Act 317 of 1968. The responsibility for carrying out procurement process
- B. No BMTA employee or member of BMTA Board of Directors shall have a financial interest, directly or indirectly, in any purchase or contract coming under the purview of his or her official duties with BMTA. All BMTA employees are prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract may be awarded, any rebate, money, employment or other financial consideration.
- C. Any agreement or collusion among potential bidders or contractors in restraint of freedom of competition by an agreement to bid a fixed price, or otherwise limit competition, is prohibited. The delivery by a vendor of goods or services is deemed to be an affirmation by the vendor that the vendor has not been a party to any such agreement or collusion, whether formal or informal.
- D. Administrative remedies against employees who breach ethical standards in procurements include the following:
 1. Oral or written reprimands.

2. Suspension with or without pay for specified periods of time.
 3. Termination of employment.
- E. Administrative remedies against vendors who breach ethical standards in procurements include the following:
1. Termination of current transactions.
 2. Debarment or suspension from being a contractor or subcontractor on future contracts.
- F. Individuals who breach ethical standards in procurements may be subject to sanctions provided under Michigan Public Act 317 of 1968.

COMPREHENSION CERTIFICATION

This is certification that I have read the entire bid or proposal package and understand the requirements.

Authorized Signee

Title

Date

BID OR PROPOSAL CERTIFICATE STATEMENT

Please fill out entire certificate and return with your bid or proposal.

1. If the bidder or offeror is not the parent company, insert below the name and main office address of the parent company. (A parent company is one that owns at least a majority, fifty-one (51%) percent of the voting rights and/or assets in that company.)

name of parent company

main address

I, _____ , _____
(authorized official) (title)

for _____, the bidder or offeror, attest to the
(company)

authority of _____ to submit
(executing agent)

this bid or proposal on behalf of the bidder or offeror and the parent company if other than the bidder or offeror.

(authorized official-signature)

2. The offeror hereby certifies that they are not included on the United States Comptroller General's list of persons or firms currently debarred for violations of various public contracts incorporating labor standard provisions.
3. By submission of this bid or proposal, each bidder or offeror and each person signing on behalf of any bidder or offeror certifies, and in the case of a joint bid or proposal, each party certifies, as to its own organization, under penalty of perjury, that to the best of knowledge and behalf:
 - a) The prices in this bid or proposal have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting completion as to any other matter relating to such prices with any other bidder or offeror or with any other competitor.
 - b) Unless otherwise required by Law, the prices which have been quoted in this bid or proposal have not been knowingly disclosed by the bidder or offeror prior to any competitor; and,
 - c) No attempt has been made or will be made by the bidder or offeror to induce any other person, partnership, or corporation to submit or not to submit a bid or proposal for the purpose of restricting competition.

(authorized official)

(title)

(company)

Documents to be included in bid or proposal package. If any are omitted, bid or proposal will be considered non-responsive.

If any of these documents do not apply to your company, write "NA" on the form and submit it with those that do apply.

EEO Certificate-Federal	Pages 15-17
EEO Certificate-State.....	Pages 17-19
Comprehension Certificate	Page 24
Bid or Proposal Certificate	Pages 25-26
Bid or Proposal Cost Form	use your own

STATEMENT OF NO PROPOSAL

NOTE: if you do not intend to make a proposal on this item, please detach and return this form immediately.

Purchasing Department
Bay Metro Transit
1510 N. Johnson Street
Bay City, MI 48708

We, the undersigned, have declined to make a proposal on your Proposal No. 2012-01 Legal Services, for the following reason(s):

_____ Specifications too restrictive, i.e., geared toward one brand or manufacturer only (explain below)

_____ Insufficient time to respond to the Request for Proposal. Date Received: _____

_____ We do not offer this product or service

_____ Our schedule would not permit us to perform

_____ Unable to meet specifications

_____ Unable to meet bond requirement

_____ Specifications unclear (explain below)

_____ Unable to meet insurance requirements

_____ Remove us from your Vendor list altogether

_____ Other (specify below)

REMARKS: _____

Business Name: _____

Signature: _____

Telephone: _____

Date: _____