

**GOVERNMENT OF
THE VIRGIN ISLANDS OF THE UNITED STATES**

**Request for Proposal – Negotiation
Professional Services**

To:

Date: August 14, 2020

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RFP No. 054-T-2020 (P)

Pursuant to 31 V.I.C. 239 (a) (4) and Rules and Regulations thereunder issued, the Government of the Virgin Islands, herein after referred to as GVI, Department of Property and Procurement will receive proposals for the work described below. Proposals will be received no later than **Friday, September 11, 2020 @ 4:30 PM o'clock p.m.** Atlantic Standard Time.

DESCRIPTION OF WORK: *Qualified Third-Party Administrator to Perform Drug and Alcohol Testing*

SCOPE OF SERVICES: *See attached*

NEGOTIATED PROCEDURES:

The Commissioner of the Department of Property and Procurement will appoint a Selection Committee to assist in the evaluation and selection of the Contractor. Accordingly, current data on qualifications and performance should be submitted with proposals. After reviewing the qualifications and proposals the Committee will select for discussions from the firm/s or person/s considered not less than three (3), in order of preference, **deemed to be most highly qualified to provide the services herein required.** Discussions will be conducted successively and severally with the firms or persons so selected the anticipated concepts and the relative utility alternative methods of approach for furnishing the services hereunder.

FACTORS FOR DISCUSSIONS

Selection criteria will include **(i)** Professional qualification, registration and general reputation of principals of the firm or person; **(ii)** the extent to which the firm or person specializes in or has provided services of a type and scope similar to the hereunder; **(iii)** familiarity with the location (s) in which services will be performed; **(iv)** capability of meeting schedules; and **(v)** quality of performance on other similar projects.

NEGOTIATION:

The Selection Committee shall recommend to the Commissioner **the highest qualified firm or person with whom a contract shall be negotiated.** The Commissioner, with the assistance of the Selection Committee, shall attempt to negotiate a contract with such firm or person.

Should the Commissioner be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price he determines to be fair and reasonable to the Government, negotiations with that firm will be formally terminated. Negotiations will then commence with the second most qualified, the third most qualified or additional firms, in order of preference, and shall continue until an agreement is reached.

Anthony D. Thomas
Commissioner
Property and Procurement

INSTRUCTION TO PROPOSERS

A. NOTICE

RFP-054-T-2020 (P) : Qualified Third-Party Administrator to Perform Drug and Alcohol Testing

Information provided in the scope of work is to be used only for purposes of preparing a proposal. It is further expected that each bidder will read the scope of work thoroughly, for failure to meet certain specified conditions may invalidate the proposal.

The Government of the Virgin Islands, herein after referred to as GVI, reserves the right to reject any or all proposals or any portion thereof and to accept the proposal deemed most advantageous to GVI. Price shall not be the sole criterion of awarding this project. Scope and quality of work proposed and the ability of the bidder to complete this type of project shall also be considered.

Applicants are requested to submit proposals on the basis of the scope of work. Alternative proposals recommending new features and technology other than that requested in the scope of work will receive consideration providing such new features and/or technology is clearly explained. Any exceptions to the requirements requested herein must be clearly noted in writing and be included as part of the proposal.

The information contained herein is believed to be accurate but is not to be considered in any way as a warranty. Request for additional information clarifying the Scope of Work should be directed in writing to **Assistant Commissioner of Procurement, Lisa Alejandro** at lisa.alejandro@dpp.vi.gov.

B. STATEMENT OF PURPOSE

To assist the Government of the Virgin Islands in meeting the requirement for the following services: **RFP-054-T-2020 (P) - Qualified Third-Party Administrator to Perform Drug and Alcohol Testing**

C. PROPOSE SCOPE OF WORK

See Attached

D. TIMETABLE

Last Day for Written Clarification is Friday, August 28, 2020 @ 1:00 PM

E. SUBMISSION OF PROPOSAL

All interested parties shall submit *one (1)* original and *five (5)* copy sets of proposals, which are to be delivered to the Department of Property and Procurement no later than ***Friday, September 11, 2020 @ 4:30 Atlantic*** Standard Time.

Electronic submissions which must include the Company's Name – Solicitation Number – Due Date in the Subject Line of the email. For Example, ABC Company, Inc. – RFP No. 001 – T-2020(P) – March 16, 2020.

The First Page of each electronic submission must also include Company's Name – Solicitation Number and Due Date. The second page of each electronic submission must only contain the following words in red font: **"CONFIDENTIAL BID SUBMISSION"**

THE ELECTRONIC SUBMISSION OF PROPOSALS MUST HAVE THE FOLLOWING INFORMATION TYPED INTO THE SUBJECT LINE OF EMAIL:

An email header preview showing fields for To, Cc, Bcc, and Subject. The To field contains the email address ebids_proposals@dpp.vi.gov. The Subject field contains the text "ABC Company, Inc. - RFP-033-T-2020 (P) - May 22, 2020".

All electronic submissions must be received [at ebids_proposals@dpp.vi.gov](mailto:ebids_proposals@dpp.vi.gov) no later than the date and time listed in each advertisement. There will be no exceptions.

F. WITHDRAWALS OF PROPOSAL

A proposal may be withdrawn at any time prior to the time specified as the closing time for acceptance of proposals. However, no proposal shall be withdrawn or canceled for a period of thirty (30) days after said closing time for acceptance of proposals nor shall the successful provider withdraw, cancel or modify the proposal, except at the request of GVI after having been notified that said proposal has been accepted by GVI.

G. INTERPRETATION OF SPECIFICATIONS

If any person contemplating submitting a proposal requires clarification of any part of the scope of work, he/she may submit to the GVI a written request for an interpretation thereof to the **Assistant Commissioner of Procurement, Lisa Alejandro**. GVI will not respond to questions received after the above established date. The person submitting the request will be responsible for its prompt delivery. Any interpretation of the scope of work will be made in writing to all prospective providers. Oral explanations will not be binding.

H. CONSIDERATION OF PROPOSAL

The Commissioner of Property and Procurement shall represent and act for GVI in all matters pertaining to the scope of work and contract in conjunction therewith. **This RFP does not commit GVI to the award of a contract, nor pay of any cost incurred in the preparation and submission of proposals in anticipation of a contract. GVI reserves the right to reject any or all proposals and to disregard any informality and/or irregularity in the proposal when, in its opinion, the best interest of GVI will be served by such action.** Proposals failing to provide some of the items in the scope of work shall not be rejected per se but any deviations from the scope must be clearly noted.

I. ACCEPTANCE OF PROPOSALS

GVI will notify in writing acceptance of one of the proposals. Failure to provide any supplementary documentation to comply with the respondent's proposal may be grounds for disqualification.

J. CONTENTS OF PROPOSAL

The following is a list of information to be included in the written proposal.
Failure to comply with all the requirements as outlined, may disqualify the applicant.

1. Organization:
 - a. Introductory letter about the applicant:
 - i. Name, address, email and telephone numbers.
 - ii. Type of service for which individual/firm is qualified.
 - b. Provide a list of staff available for the project (Local & Off-Territory)
 - c. Current Business License or state register for the services being advertised. All bidders bidding as a Joint Venture must be licensed as a Joint Venture in the US Virgin Islands
 - d. Current trade name registration certification; if applicable
 - e. Certificate of Good Standing dated July 1, 2019 or later
 - f. Articles of Incorporation (For Corporations) or Articles of Organization for (LLC's) or qualification (Limited Partnerships), if applicable.
2. Sub-Contractors:
 - a. Provide listing of Sub-Contractors that shall be retained for this project including phone numbers.
 - b. Provide what percentage of work will be sub-contracted.
3. Project Experience:
 - a. Provide a list of projects performed within the last three (3) years. Include a brief description of the work performed and cost of each project.
 - b. Provide a list of projects currently being performed. Include a brief description of the project and percentage completed.
4. Project Approach:
 - a. The respondent applying to this solicitation will describe how you will approach this project and availability to perform the services requested.
5. Project References: 3 letters minimum (including a notarized written consent from the authorized representative which must include name; telephone number; and email address).

6. Insurance Requirements: The cost of which shall be borne by the Contractor and maintained fully during the term of the contract.

a. **Certificate of Government Insurance (Workmen's Compensation):**

- i. Respondent will provide a Certificate of Insurance reflecting the required coverage by Virgin Islands law.

c. **Comprehensive General Liability Insurance:**

- ii. Respondent shall carry comprehensive general liability on an occurrence form with no "x, c, or u" exclusions with the following minimum limits:

1. Each occurrence- \$1,000,000.00
2. Damaged to rented premises-\$50,000.00
3. Medical Expenses- \$5,000.00
4. Personal & Adv Injury-\$1,000,000.00
5. General Aggregate-\$2,000,000.00
6. Products-Completed Ops. Aggregate- \$2,000,000.00

- ii. General Aggregate shall apply on a policy basis.
- iv. Respondent shall provide a Certificate of Insurance reflecting required coverage.
- v. If awarded, the Contractor shall provide proof of adding the Government as an additional insured via a scheduled/individual endorsement.

7. **Cost Proposal (*one (1) original and four (4) copy sets of proposals*) must be submitted in a separate sealed envelope.**

K. CONFLICT OF INTEREST

A proposer filing a proposal hereby certifies that no officer, agent or employee of GVI has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of GVI; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Bidder for the same request for proposals; the Bidder is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.

L. MANDATORY LIST OF REQUIRED SUPPROTING DOCUMENTS TO CONTRACT WITH GOVERNMENT OF THE VIRGIN ISLANDS

- I. See Attached.

THESE WILL BE REQUIRED PRIOR TO AWARD OF CONTRACT.

Form No. DPP-RFP-PS-68-75
Approved 5/7/75
Revised 3/18/08



List of Required
Docs.09.17.2018.pdf

SCOPE OF WORK

PROVISION OF DRUG AND ALCOHOL TESTING SERVICES

Task I. Specimen Collection and Drug Testing

This task will be broken down into several sub-tasks

1.1 Identification of Facilities:

The **Proposer** shall utilize the existing collection facilities already established and shall provide the proper laboratory collection kits, chain of custody forms, and collection procedures. The final decision regarding the approval of collection facilities is the V.I. Public Transit System's and the Department of Public Works' responsibility.

1.2 After-Hour Collection:

The **Proposer's** staff shall be available from 7:30 A.M. – 6:00 P.M. to assist with any problems regarding collection and/or breath-testing services that may arise. There should also be a toll-free number available for PACS (Post Accident Collection Services) to be used for any after-hours, weekend or holiday services that may be required. The transit system will simply call the assigned Account Specialist to arrange any post-accident testing during normal business hours (7:30 A.M. until 6:00 P. M. Monday through Friday). Each authorized transit system contact will be given access to an 800 pager number which will be operable during non-office hours (5:30 P.M. until 7:30 A.M. Monday through Friday and 24 hours a day on Saturdays and Sundays).

When contacted, the PACS Specialist will identify collection facilities for post accident or any other type of drug or alcohol testing. The PACS Specialist will, at the client's request, arrange for on-site collections if a facility is not available within a reasonable or convenient geographic area. The PACS Specialist will further resolve any problem (s) related to the service provided by the collection facility or on-site service provider. If collection cannot be made available, the PACS Specialist will prepare a report documenting the steps it has taken to locate the collection facility or on-site service. It is recommended that collection kits, custody and control forms, test requested forms, lab packs, and air bills be kept in the driver's vehicle at all times for post accident testing. The **Proposer** shall resolve any specimen collection problems that result in a rejected specimen or an inconclusive result requiring pretest.

The **Proposer** shall continually strive to maintain collection facilities that provide collection services in accordance with federal and state regulations. These services include overnight specimen transportation from the collection site to the laboratory. As a result of a recent FTA audit of transit systems, new quality control procedures have been implemented to assure compliance with regulations.

1.3 Insufficient Volume:

In the event a donor cannot provide sufficient urine or breathe for testing, federal regulations require that specific exams be administered to determine if there is a medical reason for the insufficient quantity. The **Proposer** will work with designated collection sites to establish parameters for the Shy Bladder/Shy Lung exam requirements. The following protocols will be established for these exams:

Shy Bladder Exam – This exam consists of a medical history to determine whether the employee has had any prior or existing medical condition (s) that may affect his/her ability to produce an adequate urine quantity for specimen testing. The history should be followed by a basic medical exam (i.e. height, weight, blood pressure, listen to heart and lungs and urinalysis). If the exam reveals any kind of medical condition (s) that could prevent the employee from rendering an adequate urine quantity for specimen testing, both the employee and the employer should be notified of these findings. Any medical examination or treatment beyond this will become the responsibility of the employee.

Shy Lung Exam – This exam consists of a medical history to determine whether the employee has any prior or existing medical condition (s) that might affect his/her ability to provide an adequate amount of breath volume for testing. The history should be followed by a pulmonary function evaluation test. The minimal volume to accomplish evidential breath testing is 1.2 to 1.4 liters of breath for a minimal of 6 seconds. If the exam reveals any medical condition (s) exist that could prevent the employee from rendering an adequate breath volume for testing, both the employee and employer should be notified of these findings. Any medical examination or treatment beyond this would become the responsibility of the employee.

1.4 Quality Assurance

The **Proposer** shall provide customized "Drug/Alcohol Test Request Forms" to be completed and faxed to the **Proposer** each time an employee is directed to a collection facility for testing. The employee/applicant who has been directed to a facility for testing should take the form with him/her to the collection site. The form will act as an instructional sheet for the collection facility and also helps prevent fatal flaws in the Drug collection process that can result in a cancelled test. This form also provides the **Proposer** with the employee category necessary for MIS reporting.

Task 2. DHHS Certified Laboratories

Laboratory testing shall be provided by a U.S. Department of Health and Human Services (DHHS) certified laboratory under contract with **Proposer**. **Proposer** does not propose a specific laboratory, since it is more important to the client to be able to change laboratories if the level of service falls below the **Proposer's** required laboratory vendor service level. The initial

screening process shall be conducted by using an immunoassay procedure. All screened positive results shall be confirmed by Gas Chromatography/Mass Spectrometry (GC/MS). All laboratory testing shall be performed in accordance with DHHS and other applicable procedures. All reporting results shall be done in accordance with DHHS and other Federal Regulations. The **Proposer** shall resolve any specimen problems that result in rejected specimen or inconclusive result requiring a retest.

If a "split specimen" result comes back as "positive", the Medical Review Officer (MRO) shall offer the employee the option of having the "split sample" sent to a second DHHS/SAMHSA certified laboratory of his/her choice.

Task 3. Medical Review Officer

The **Proposer** shall provide medical review services under the direction of a professional, qualified, federally certified physician, the Proposer's full-time, in-house medical review officer.

Task 4. Drug Testing

The **Proposer** shall have gone on line with a computer that is able to keep pace with anticipated volume of tests to be conducted as **Proposer's** organization continues to grow.

All tests performed for the public transit system shall be conducted utilizing the approved DOT 5-panel drugs of detection that consists of:

- Cannabinoids
- Cocaine
- Amphetamines
- Opiates
- Phencyclidine

Task 5. Breathe Alcohol Testing

The **Proposer** shall work with collection sites that have already been approved by the Department of Public Works, that have purchased the approved devices and that have performed the evidential breath testing for the public transit system.

The **Proposer** shall review and maintain specific records pertaining to evidential breath testing. To accomplish this, the **Proposer** shall develop a Breath Alcohol Review (BAT REVIEW) and reporting system.

The **Proposer's** BAT Review Specialist shall:

- Assure all evidential breath testing is performed with instruments listed on the DOT Conforming Products List;
- Maintain a copy of the Quality Assurance Plan for instruments used for testing;
- Verify Breath Alcohol Technician's certification;
- Receive test results from Breath Alcohol Technicians as designated public transit system representatives;
- Review all Breath Alcohol Technician Form requirements on both negative and positive tests;
- Report negative results to designated public transit system representatives (all positive alcohol test results shall be reported simultaneously to the appropriate transit system and to the **Proposer**);
- Make available necessary information as needed for the DOT/FTA MIS reporting.

This review process shall allow the public transit system to remove the positive employee from the safety-sensitive position but delay any required disciplinary action until the **Proposer** has confirmed the breath alcohol test was performed in accordance with federal regulations and is a valid test.

Task 6. Random Data Base

The Proposer shall utilize a statistically valid computer generated random selection process which randomly selects individuals from a designated employee pool.

Employees subject to random testing shall be part of a pool with each employee having an equal chance of being chosen in each selection period. Even those employees chosen in previous periods will be subject to selection in all future periods. Therefore, there will be the possibility that some employees will be selected more frequently than others. Notification of selected employees shall be made to the company's designated program administrators. Since many employees may not always be available to report for a random test, this will allow employers the flexibility to schedule employees at the convenience of the employee, employer and collection facility. This will also allow the public system to make sure random testing is spread throughout all hours of the operation. The **Proposer** shall combine employee names from each public transit location into two (2) customized consortia pools – DOT and non-DOT. Random selections shall be automatically generated at required time increments.

Scope of Work

Program Validation: A professional, qualified professor of statistics belonging to a reputable graduate school of management shall conduct the validation of the **Proposer's** program. To validate randomness, 1 million (1,000,000) random selections were made over a control group of one hundred (100). A histogram by category indicated that the counts fell symmetrically around the mean (10,000). Moreover, the minimum and maximum counts will indicate that the selection process is within acceptable limits. Technically, the randomness shall be sustained at this level.

Each time the **Proposer** shall conduct a random selection; three (3) reports shall be provided to the client.

Selection Run Information Sheet shall provide general information about the selection including, the date of selection, pool I.D., pool description, number in pool, number of selections conducted each year, selection rate (%) and number selected.

Employees Selection Form shall list the name, I.D. No., location, etc. of each employee selected.

Active Population Form lists the name, the I.D. No., location, etc. of each active employee in the selection pool.

Employee Selection Pools shall be updated either by submitting an Employee Update Form, a computer printout, or an ASCII format file on computer diskette.

The **Proposer** shall monitor testing activity for the public transit system as it participates in the random selection testing program. The employees selected shall be cross-referenced with **Proposer's** testing activity database. Periodically, the **Proposer** shall notify the public transit system and the Department of Public Works in situations where an employee was selected but not tested. The public transit system will then determine why the test has not been performed. Depending on the circumstances, future selection rates may require modification to maintain certain rates.

Task 7. Record-keeping, Reporting and Certification

The **Proposer** shall perform all record-keeping in accordance with Title 49 of the Code of Federal Regulations. The **Proposer** shall receive test results via fax and down load directly to its system. These results shall be promptly reviewed by the medical review services and processed accordingly. All negatives shall be reported electronically to the authorized contact for the public transit system.

Scope of Work

Knowing and understanding that the consistent and accurate medical review of test results are vital to both the individual donor and the employer, the **Proposer** realizes its importance and shall provide this service in a timely and efficient manner. Further, the **Proposer** understands that one of its primary functions shall be to manage this information; and, through its continuing commitment to technology, shall develop several new and innovative ways of providing service in a computer assisted mode.

Task 8. Reporting

The Proposer and client shall determine the best method of reporting drug alcohol test results. Integrated Voice Reporting (IVR) is an electronic voice reporting system that provides quick and easy access to initial test results. IVR allows for secured access of test results, by telephone or fax, anytime day or night. Each authorized transit system contact shall be assigned secret code numbers for access to the result information.

Aggregate quarterly, statistical reports shall be provided by the testing laboratory. The Proposer shall also provide annual reports to the public transit system containing all necessary information for MIS reporting. The annual reports shall provide information by employee categories as required under FTA regulations.

Upon request, the **Proposer** shall prepare a litigation package for the public transit system with all necessary documentation of a positive result. The **Proposer** shall maintain all required records in accordance with any applicable federal and/or state regulations.

The **Proposer** shall provide copies of any requested records within 14 working days of the request.

Strict confidentiality of all test results shall be maintained, at all times, by each and every member of **Proposer's** professional staff.

ACCESS TO RECORDS AND REPORTS

49 U.S.C. 53325

18 CFR 18.36

49 CFR 633.17

Access to Records – The following access to records requirements apply to this bid:

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 CFR 18.36(I), the manufacturer 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 manufacturer which are directly pertinent to this bid for the purposes of making audits, examinations, excerpts and transcriptions. The manufacturer also agrees pursuant to 49C.F.R 663.17 to provide the FTA Administrator or his authorized representatives including any PMO manufacturer access to manufacturer's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 53029a)1, which is receiving federal financial assistance through the programs described at 49 U.S. C. 5307, 5309 or 5311.the Purchaser.
2. Where the purchaser is a State and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, the manufacturer agrees to provide the Department, the FTA Administrator or his authorized representatives, including any PMO manufacturer, access to the manufacturer'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. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, an hospital or other non-profit organization and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49C.F. R 19.48 , manufacturer agrees to provide the department, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the manufacturer which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any purchaser which is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)(1) through other than competitive bidding, the manufacturer shall make available records related

Contract No. _____

Contractor's Initial _____

Access to Records and Reports
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to the contract to the Department, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection

5. The manufacturer agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The manufacturer agrees to maintain all books, records, accounts and reports required under this bid for a period of not less than three years after the date of termination or expiration of this bid, except in the event of litigation or settlement of claims arising from the performance of this bid, in which case the manufacturer agrees to maintain same until the Department, 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).

Name of Company: _____

Signature of Authorized Official: _____

Date: _____

Contract No. _____

Contractor's Initial _____

BREACHES AND DISPUTE RESOLUTION
49 CFR Part 18
FTA Circular 4220.1D

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representatives of the Department's Commissioner. This decision shall be final and conclusive unless within (10) days from the date of receipt of its copy, the Manufacturer mails or otherwise furnishes a written appeal to the Commissioner. In connection with any such appeal, the Manufacturer shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Commissioner shall be binding upon the Manufacturer and the Manufacturer shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the Commissioner, the Manufacturer shall continue performance under this bid while matters in dispute are being resolved.

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

Remedies - Unless this bid provides otherwise, all claims, counterclaims, disputes and other matters in question between the Department and the Manufacturer arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Department is located.

Rights and Remedies - The duties and obligations imposed by the Bid Documents and the rights and remedies available there under shall in addition to, and not a limitation of any duties, obligations rights and remedies otherwise imposed or available by law. No action or failure to act by the Department, or Manufacturer shall constitute a waiver of any right or duty afforded any of them under the Bid, any such action or failure to act constitute an approval of or acquiescence in any breach there under, except as may be specifically agreed in writing.

Name of Company: _____

Signature of Authorized Official: _____

Date: _____

Contract No. _____

Contractor's Initial _____

Energy Conservation Requirements
42 U.S.C 6321 et seq.
49 CFR Part 18

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

Name of Company: _____

Signature of Authorized Official: _____

Date: _____

Contract No. _____

Contractor's Initial _____

Federal Changes
49 CFR Part 18

The bidder, shall at all times comply with applicable FTA regulations, policies, procedures and directives, including without limitations those listed directly or by reference in the Agreement (Form MA (2) dated October, 1995, between the department and FTA, as they may be amended or promulgated from time to time during the term of this bid. If the Bidder fails to comply, it shall constitute a material breach of this bid.

Name of Company: _____

Signature of Authorized Official: _____

Date: _____

Contract No. _____

Contractor's Initial _____

**NO GOVERNMENT OBLIGATION
TO THIRD PARTIES**

The Department of Public Works and the bidder acknowledge and agree, not withstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying bid, absent the express written consent by the Federal Government. The Federal Government is not a party to this bid and shall not be subject to any obligations or liabilities to the Department of Public Works, the bidder or any other party (whether or not a party to that bid) pertaining to any matter resulting from the underlying bid.

Name of Company: _____

Signature of Authorized Official: _____

Date: _____

Contract No. _____

Contractor's Initial _____

**PROGRAM FRAUD AND FALSE OR FRAUDULENT
STATEMENTS AND RELATED ACTS
31 U.S.C. 3801 et seq.
49CFR Part 31 18 U.S.C 001
49 U.S.C 5307**

The bidder acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C Paragraphs 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 bid, the bidder certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, will make or will cause to be made pertaining to the underlying bid of FTA assisted project for which this bid work is being performed. In addition to other penalties that may be applicable, the bidder 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 bidder to the extent the Federal Government deems appropriate.

The bidder 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 bid connected with the project that is financed in whole or in part with Federal Assistance originally awarded by FTA under the authority of 49 U.S.C Paragraph 5307, the Government reserves the right to impose the penalties of 18 U.S.C Paragraph 1001 and 49 U.S.C Paragraph 5207 (n) (1) on the Bidder, to the extent the Federal Government deems appropriate.

The bidder agrees to include the above two clauses in each sub-contract financed in whole or in part with Federal assistance provided by FTA. It further agreed that the clauses not be modified, except to identify the sub-contractor who will be subject to the provision.

Name of Company: _____

Signature of Authorized Official: _____

Date: _____

Contract No. _____

Contractor's Initial _____

TERMINATION
49 U.S.C Part 18
FTA Circular 4220.1D

- A. Termination for Convenience (General Provision) The Department of Public Works may terminate this bid, in whole or in part, at any time by written notice to the bidder when it is in the Government's best interest. The bidder shall be paid his/her costs, including bid close-out costs, and profit on work performed up to the time of termination. The bidder shall promptly submit its termination claim to the department to be paid. If the bidder has any property in its possession belonging to the department, the bidder will account for the same, and dispose of it in the manner the department directs.
- B. Termination for Default (General Provision). If the bidder does not deliver the report in accordance with the contract delivery schedule, or if the bidder fails to perform in the manner called for in the bid, or if the bidder fails to comply with the other provisions of the bid, the department may terminate this bid for default. Termination shall be effected by serving a notice of termination on the bidder setting forth the manner in which the bidder is in default. The bidder will only be paid the bid price for reports delivered and accepted, or for services performed in accordance with the manner of performance set forth in the bid.

If the department later determines that the bidder had an excusable reason for not performing, such as fire, strike, flood, events that are not the fault of or are beyond the control of the bidder, the department may allow the bidder to continue work after setting a new delivery of performance schedule.

- C. Opportunity to Cure (General Provision). The department in its sole discretion may, in the case of termination for breach or default, allow the bidder a relatively short period of time to cure the defect. In this case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If the bidder fails to remedy the situation to the department's satisfaction the breach or default or any of the terms, covenants or conditions of this bid within 10 days after receipt by bidder or written notice from the department setting forth the nature of said breach or default, the department shall have the right to terminate the bid without further obligation to the bidder.

- D. Waiver of Remedies for any Breach :- In the event that the department elects to waive its remedies for any breach by the bidder of any covenant, term or condition of this bid, such waiver by the department shall not limit the department's remedies for any succeeding breach of that or any other term, covenant or condition of this bid.

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Contractor's Initial _____

Termination (Cont'd)

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E. Termination for Convenience: - The department, by written notice, may terminate this bid in whole or in part, when it is the Government's interest. If this bid is terminated, the department shall be liable only for payment under the payment provisions of this bid for services rendered before the effective date of termination.

F. Termination for Default: - If the bidder fails to perform the service within the time specified in this bid or if the bidder fails to comply with any other provisions of this bid, the department may terminate this bid for default. The department shall terminate the bid by delivering to the bidder a Notice of Termination specifying the nature of the default. The bidder shall only be paid the bid price for services performed in accordance with the manner or performance set forth in this bid.

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

Name of Company: _____

Signature of Authorized Official: _____

Date: _____

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GOVERNMENTWIDE DEBARMENT AND SUSPENSION
49CFR PART 29
Executive Order 12549

1. By signing and submitting this bid for proposal, the prospective bidder is providing the signed certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the bidder knowingly rendered an erroneous certification, in addition to other remedies available remedies, including suspension and/or debarment.
3. The bidder shall provide immediate written notice to the Department of Public Works (DPW) if at any time the prospective bidder learns that its certifications was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "bidder covered transaction," "participant," "persons," "principle," "proposer" and "voluntary excluded," as used in this clause, have the meanings set out in the Definitions and Coverage section rules implementing Executive Order 12549 (49 CFR Part 29).
4. The bidder agrees by submitting this proposal that, should a proposed covered transaction be entered into, bidder shall not knowingly enter into any covered transaction with a person debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized, in writing by the department.
5. The bidder agrees by submitting this proposal that he/ will include the clause Titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion" -without modification, in all solicitation for covered transactions.
7. A bidder in a covered transaction may rely upon a certification of a prospective transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless he/she knows that the certification is erroneous. A bidder may decide the method and frequency by which it determines the eligibility of its principals. Each consultant may, but is not required to, check the Non-procurement List issued by the U.S. General Service Administration.

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Government Debarment and Suspension

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8. Nothing contained in the foregoing shall be construed to require establishment of system records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for a transaction authorized under Paragraph 5 of these instructions, if a bidder in a covered transaction knowingly enters into a covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the department may pursue available remedies including suspension and/or debarment.

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – “Lower Tier Covered Transaction”.

The bidder certifies, by submission of this bid or proposal, that neither bidder nor its “principals” as defined in 49CFR paragraph 29.105(p) is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by an Federal department or agency.

When the bidder is unable to certify to the statements in this certification, such prospective bidder shall attach an explanation to this proposal

9. The bidder also agrees to include these requirements in each sub-contract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

Name of Company: _____

Signature of Authorized Official: _____

Date: _____

Contract No. _____

Contractor's Initial _____

Civil Rights

29 U.S.C Paragraph 623, 42 U.S.C Paragraph 2000
42 U.S.C Paragraph 6102, 42 U.S.C Paragraph 12112

Civil Rights – The following requirements apply to the underlying bid:

- 1.) Nondiscrimination – In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C Paragraph 2000d, section 303 of the Age Discrimination Act of 1975, as amended 42 U.S.C Paragraph 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C Paragraph 12312, and Federal Transit Law at 49 U.S.C Paragraph 5332, the bidder agrees that it will not discriminate against employee or applicant because of race, color, creed, national origin, sex, age or disability. In addition, the bidder agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- 2.) Equal Employment Opportunity – The following equal opportunity requirements apply to the underlying bid:
 - (a) Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act as amended, 42 U.S.C Paragraph 2000e, and Federal Transit Law at 49 U.S.C Paragraph 5332, the bidder agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOT) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, "4" CFR 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. Paragraph 2000e note), and with applicable Federal statues, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the project.

The bidder agrees to take affirmative action to ensure the applicants are employed, and the employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training, including, including apprenticeship. In addition, the bidder agrees to comply with any implementing requirements FTA may issue.

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Contractor's Initial _____

Civil Rights (Cont'd)

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Age- In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. Paragraph 623 and Federal Transit Law at 49 U.S.C Paragraph 5332, the bidder agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the bidder agrees to comply with any implementing requirements FTA may issue.

(b) Disabilities- In accordance with section 102 of the American with Disabilities Act, as amended, 42 U.S.C Paragraph 12112, the bidder 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 wit Disabilities Act, "29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the bidder agrees to comply with any implementing requirements the FTA may issue.

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

Name of Company: _____

Signature of Authorized Official: _____

Date: _____

Contract No. _____

Contractor's Initial _____

STATE AND LOCAL LAW DISCLAIMER

State and Local Law Disclaimer – The use of many of the suggested clauses are not governed by the Federal law, but are significantly affected by state law. The language of the suggested clauses may need to be modified depending on the state law, and that before the suggested clauses are used in the grantees procurement documents, and grantees should consult with their local attorney.

Name of Company: _____

Signature of Authorized Official: _____

Date: _____

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**INCORPORATION OF FEDERAL TRANSIT
ADMINISTRATION (FTA) TERMS
FTA CIRCULAR 4220, 1E**

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 bid provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220, 1D, dated April 15, 1996, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to the control in the event of a conflict with other provisions contained in this Agreement. The bidder shall not perform any act, fail to perform any act, or refuse to comply with the Department of Public Works request would cause the Department to be in violation of the FTA terms and conditions.

Name of Company: _____

Signature of Authorized Official: _____

Date: _____

Contract No. _____

Contractor's Initial _____

DEBARMENT CERTIFICATION

By execution of this contract, the Contractor/Bidder certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The contractor shall include this provision in each of its sub-contracts hereunder and shall furnish its sub-contractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON-PROCUREMENT." In the event the contractor or sub-contractor misrepresents its eligibility to receive contract awards using federal funds, the contractor or sub-contractor agrees that it shall not be entitled to payment for any work performed under this contract or sub-contract and that the Contractor or sub-contractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made. If, during the term of this contract, the contractor shall become ineligible to receive contract awards using federal funds, this contract shall be terminated forthwith for cause and the contractor shall not be entitled to payment for any work performed under this contract or sub-contract after the effective date of such ineligibility.

Name of Company

Signature of Authorized Official:

Date: _____

Contract No. _____

Contractor's Initial _____

FALSE CLAIMS

Contractor warrants that it shall not, with respect to this contract make or present any claim upon or against the Government of the Virgin Islands, or any officer, department, board, commissioner, or any other agency thereof, knowing such claim to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is an offense under Virgin Islands law.

Name of Company

Signature of Authorized Official:

Date: _____

Contract No. _____

Contractor's Initial _____

NOTICE OF FEDERAL FUNDING

Contractor acknowledges that this Contract is funded, in whole or in part, by federal funds. Contractor warrants that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious or fraudulent claim is a federal offense.

Name of Company: _____

Signature of Authorized Official: _____

Date: _____

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Contractor's Initial _____

FLY AMERICA REQUIREMENTS
49 U.S.C. Part 40118
41 CFR Part 301-10

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

Name of Company: _____

Signature: _____

Date: _____

Contract No. _____

Contractor's Initial _____

DRUG AND ALCOHOL TESTING
49 U.S. C. § 5331
49 CFR Parts 654 and 655

INTRODUCTION

FTA's drug and alcohol rules, 49 CFR Parts 654 and 655 respectively are unique among the regulations issued by FTA. First they require recipients to ensure that any entity performing a safety-sensitive function on the recipient's behalf (usually sub-recipients and/or Bidder) implement a complex drug and alcohol testing program that complies with Parts 654 and 655.

Second, the rules condition the receipt of certain kinds of FTA funding on the recipient's compliance with the rules; thus, the recipient is not in compliance with the rules unless every entity that performs a safety-sensitive function on the recipient's behalf is in compliance with the rules. Third, the rules do not specify how a recipient ensures that its sub-recipients and/or contractors comply with them.

How a recipient does depends on several factors, including whether the Bidder is covered independently by the drug and alcohol rules of another Department of Transportation operating administration, the nature of the relationship that the recipients has with the Bidder, and the financial resources available to the recipient to oversee the Bidder's drug and alcohol testing program. In short, there are a variety of ways a recipient can ensure that its sub-recipients and Bidder's comply with the rules.

Name of Company: _____

Name of Authorized Official: _____

Date: _____

Contract No. _____

Contractor's Initial _____

DRUG AND ALCOHOL TESTING CERTIFICATION

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 654 and 655, produce any documentation necessary to establish its compliance with Parts 654 and 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the Government of the Virgin Islands or the Department of Public Works to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49CFR Parts 654 and 655 and review the testing process. The Bidder agrees further to certify annually its compliance with parts 654 and 655 before May 15th to the Deputy Commissioner of Transportation. To certify compliance the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The Contractor agrees further to either submit upon request a copy of the Policy Statement developed to implement its drug and alcohol testing program; adopt the policy Statement issued by the department or submit for review and approval before May 15th a copy of its Policy Statement developed to implement its drug and alcohol testing program.

Name of Company _____

Signature of Authorized Official: _____

Date: _____

Contract No. _____

Contractor's Initial _____

**Disadvantaged Business Enterprise (BE)
49 CFR Part 26**

This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Enterprises in Department of Transportation Financial Assistance Programs.

The Contractor shall maintain with "DBE Approval Certifications" throughout the period of Contract Performance.

The Contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the Government of the Virgin Islands deems appropriate. Each subcontract the Contractor signs with a Subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

Name of Company: _____

Signature of Authorized Official: _____

Date: _____

Contract No. _____

Contractor's Initial _____