



Duluth Transit Authority

REQUEST for PROPOSALS

FOR

Bus Operator Uniforms

April 11, 2023

Duluth Transit Authority

2402 W. Michigan St · Duluth, MN 55806

(218) 623-4329 fax: (218) 722-4428

email: nbrown@duluthtransit.com

Duluth Transit Authority Request for Proposals Bus Operator Uniforms

The Duluth Transit Authority hereby requests proposals from qualified firms for the provision of Bus Operator Uniforms.

Background information, the project scope of work and submission requirements may be obtained by calling, emailing or writing the Duluth Transit Authority, Procurement Manager, 2402 West Michigan Street, Duluth, MN 55806; 218-623-4329, or nbrown@duluthtransit.com. Proposal packages will be mailed or emailed to all interested parties.

Proposals must be received no later than **1:00 p.m., Thursday, May 11, 2023.**

The DTA encourages the participation of small and disadvantaged business enterprises, and affirmatively assures that equal opportunity will be offered to all persons without regard to race, color, creed, religion, national origin, gender, marital status, disability, or age.

This request does not obligate the DTA to complete the work contemplated in this notice. The DTA reserves the right to accept or reject any and/or all responses or waive any informalities, or to delay or cancel this request in the best interest of the Authority. All expenses incurred in responding to this notice shall be borne by the responder.

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Section 1.

General Conditions

G-1 REQUEST FOR PROPOSALS

- a) Proposals are requested from qualified firms to provide Bus Operator Uniforms for the Duluth Transit Authority.
- b) This project is funded in part by a grant from the Minnesota Department of Transportation and the Federal Transit Administration, Assistance Listing 20.507, Federal Transit Formula Grants.
- c) Proposals shall be on the basis of costs for the services under the following requirements and conditions, which shall be considered an essential part of the Contract Documents.
- d) The DTA reserves the right to accept and/or refuse any or all Proposals, to add or delete work without penalty, in the interest of the DTA.
- e) Proposer will bear all costs incurred in responding to this RFP.
- f) Prices shall be good for ninety (90) days after the Proposal opening.
- g) This Contract may be subject to the approval of the DTA Board of Directors.

G-2 INQUIRIES

All inquiries and other correspondence relating to this Request for Proposals should be emailed to nbrown@duluthtransit.com, or addressed to: Duluth Transit Authority Procurement Manager, 2402 West Michigan Street, Duluth, MN 55806, 218-623-4329.

G-3 DEFINITION OF TERMS

Whenever the following terms are used in these specifications, the intent and meaning of them shall be interpreted as follows:

- a. DTA, customer, buyer, or Operator shall mean the DTA.
- b. Project Manager shall mean Ms. Tracy Christensen, Human Resources Manager.
- c. Manufacturer, Vendor, Proposer, or Contractor shall mean that firm subsequently receiving the Contract award from the DTA as detailed in these specifications.

G-4 SUBSTITUTIONS AND OR EQUAL

- a) Whenever brand, manufacturer model or product names are indicated in the specifications, they are included for the purpose of establishing identification and a general description of the item. Whenever a process is designated or a manufacturer's name, brand, model or item description is given, or whenever a process or material covered by a patent is designated or described, it will be understood that the words "or approved equal" follow such name, designation or description, whether or not they do so follow.
- b) Please note that DTA personnel are NOT allowed to discuss the RFP with anyone, including Proposers, before the Proposal submission deadline without permission, except that prime contractors and /or subcontractors may make appointments to discuss these specifications with the Procurement Manager. This, however, does not relieve them from the written, documented request required by paragraph c) below. Where prior approval is called for in the specifications it means prior to Proposals opening. Minutes of discussions and responses to questions will be provided to all Proposers in the form of an addendum to this RFP.
- c) Requests for approved equals, clarifications of specifications, and protest of specifications must be received by the Procurement Manager in writing via email (preferred) or regular mail no later than **2:00 p.m. on Wednesday, May 3, 2023**. Any request for an 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 specifications that pertain to an item under consideration. The supporting evidence for the approved equal must be submitted with the request for approval. All requests must be

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- submitted via email or US Mail unless otherwise approved by the DTA Procurement Manager in writing.
- d) The replies to request under paragraph c) above will be posted in the form of an addendum to this RFP on the DTA website at www.duluthtransit.com/doingbusinesswithus on **Friday, May 5, 2023**.
 - e) It is at the sole discretion of the DTA Project Manager to accept or deny requests for "approved equals." The Contractor cannot challenge the DTA Project Manager's denial of an approved equal submittal either before Proposal opening or after award of the Contract.
 - f) It should be understood that using a specified brand name component and/or equipment in the specifications does not relieve the Contractor from its responsibility to accomplish the work in accordance with the warranty and other Contract requirements herein. The Contractor is responsible for notifying the DTA Procurement Manager of any inappropriate brand name component and/or equipment that may be called for in the specifications, and for proposing a suitable substitute for consideration.
 - g) No oral explanation or interpretation will modify any of the requirements or provisions of the Contract documents. The DTA will assume NO responsibility for oral instructions or suggestions. Changes to the specifications will be made **only by written** addendum. Addendum will be posted on the DTA website at www.duluthtransit.com.

G-5 PREPARATION OF PROPOSAL

Proposals must be submitted on the forms attached. All blanks in the Proposal form must be completed with ink or typewriter. Proposals containing alterations or erasures may be rejected unless the alteration or erasure is corrected by crossing out the error, inserting the correction adjacent thereto with ink or typewriter and initialing the correction in ink by the person signing the Proposal. In the event any price term is expressed by the Proposer in both written and numerical form, the **written** representation shall govern in the event of an inconsistency.

Proposals shall not stipulate any condition not contained in the specifications and other documents submitted for Proposal.

Each Proposal and all papers bound and attached thereto shall be emailed in a portable document format (".pdf") attachment (including a copy of the Proposal Security) and emailed to nbrown@duluthtransit.com, OR placed and securely sealed in an envelope marked: "**Bus Operator Uniforms**" and mailed or delivered to:

DTA Procurement Manager
2402 West Michigan Street
Duluth MN 55806

Proposals must be received no later than **1:00 p.m. on Thursday, May 11, 2023**. Time means local time in Duluth, Minnesota. Late Proposals will not be considered. The DTA reserves the right to accept or reject any and/or all Proposals in the best interest of the Authority.

No Proposal may be modified after submission except by written modification electronically or physically received by the DTA prior to the time set for the opening of Proposals. Modifications must be signed by the person submitting the Proposal or accompanied by an explanation as to why it is not and must indicate that it modifies the original Proposal. Modifications shall be submitted in a .pdf attachment in an email to nbrown@duluthtransit.com or securely sealed envelope marked as indicated on the Proposal Form.

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G-6 WITHDRAWAL OF PROPOSALS

A Proposer may withdraw its Proposal at any time before the time set for the opening of the Proposals only in writing addressed to the DTA marked "WITHDRAWAL OF PROPOSAL" and emailed or physically received by the DTA prior to the time for the opening of Proposals.

G-7 CONSIDERATION OF PROPOSAL

The DTA reserves the right, in the determination of the most responsive and responsible Proposer, to consider the ultimate economy of the Proposal within the guidelines of these specifications, to reject any and/or all Proposals, including, but not limited to the determination that the Proposal was incomplete, non-responsive, obscure or lacking the necessary details and specificity, that the Proposer lacks qualifications, experience and/or responsibility necessary to provide the goods and services, or that Proposer failed or neglected to complete and submit any information within the time specified. The DTA may cancel the RFP, issue subsequent RFPs, or waive any errors or informalities in any Proposal, in the best interests of the DTA.

The Evaluation Committee may not necessarily make a recommendation to award to the Proposer with the highest technical ranking, nor make a recommendation to award to the Proposer with the lowest Cost Proposal, if doing so would not be in the best interests of the DTA.

G-8 PROPOSAL DOCUMENTS, ADDENDA

It is the Proposer's responsibility to assure the receipt of all procurement documents, including addenda, pertaining to this Request for Proposals. All documents will be posted online at www.duluthtransit.com/doingbusinesswithus. In addition, Proposers may inspect and/or obtain copies of the Proposal documents at the DTA offices, 2402 West Michigan Street, Duluth, MN 55806, during business hours. The DTA may, at its sole discretion, limit the number of people at one time inspecting the Proposal documents, and/or may require Proposers to wear protective personal equipment, including face masks, gloves, high visibility vests or other PPE that may be reasonably necessary to ensure safety of DTA staff and Proposers, and encourages responsible social distancing and other measures to prevent the spread of infectious or dangerous contagions.

G-9 PROPOSAL CONTENTS CERTIFICATION

By submitting a Proposal, the Proposer warrants that the information provided is true, correct and reliable for purposes of Contract award. The submission of inaccurate or misleading information may be grounds for disqualification from Contract award and may be subject the Proposer to suspension or debarment proceedings, as well as other remedies available to the DTA.

G-10 PREPROPOSAL MEETING

The DTA will conduct a virtual pre-proposal meeting at 10:00 a.m. local time on April 20, 2023 in Duluth, MN for interested parties. Attendance is not mandatory, but strongly encouraged. For information on accessing the meeting, please contact 218-623-4329 or nbrown@duluthtransit.com.

G-11 DUE DILIGENCE

As required of the Proposer receiving a Contract under this RFP, due diligence is the measure of diligence and skill required of a good and competent Contractor in Proposing and performing the work as contemplated by peers in the industry and measured by standard Contracting practices commensurate with the duty to be performed and the individual circumstances of the project.

G-12 CONTRACT FORM AND CHANGES

The chosen Proposer, within twenty (20) days after the award of the Contract from the DTA shall sign the formal Contract.

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A sample Contract is included in this RFP. Any proposed changes to this Contract shall be submitted to the DTA Procurement Manager no later than ten (10) days prior to Proposal due date for DTA consideration. Approval of requested changes shall be solely at the DTA's discretion. Only written change orders, amendments or addenda, signed by the Procurement Manager and/or General Manager of the DTA shall be binding upon the DTA.

The Proposer shall at once report to the Procurement Manager any error, inconsistency, or omission it may discover in the Contract Documents. Failure to report such errors, inconsistencies or omissions immediately when the Proposer discovers them, or should have discovered them if the Proposer had conducted the Due Diligence required of the Proposer, will void any claim by the Proposer for an equitable adjustment based on the errors, inconsistencies or omissions. Additionally, if the failure to report such errors, inconsistencies or omissions results in damages to the DTA, the selected Proposer will be responsible to compensate DTA for those damages to the extent that the damages could have been avoided had the Proposer reported the errors, inconsistencies or omissions when it first discovered them, or should have discovered them.

G-13 BONDING REQUIREMENTS

No bonds are required for this project.

G-14 PRICE COMPLETE

The price quoted in any Proposal submitted shall include all items of services, labor, material, alterations, tools, equipment and other costs necessary to fully complete the production and delivery of the equipment pursuant to these specifications. It is the intention of these specifications to provide and require complete equipment of the type prescribed herein. Any items omitted from the specifications which are clearly necessary for the operation of such equipment shall be considered included in the Proposal specifications although not directly specified or called for in these specifications. No advantage shall be taken by the Proposer, manufacturer or supplier in the omission of any part or detail which goes to make the equipment complete and ready for service or use.

Proposer acknowledges and agrees that it will not and cannot assume conditions affecting the work based upon documents and information provided by the DTA or representations and statements made by DTA personnel. The DTA assumes no responsibility for any conclusions or interpretations made by the Proposer based on the information made available by the DTA. Nor does the DTA assume responsibility for any understanding reached or representations made concerning conditions which can affect the work by any of its officers or agents before the execution of the Contract, unless that understanding or representation is expressly stated in this Contract.

G-15 STATE, FEDERAL, OSHA SAFETY REQUIREMENTS

All work performed under this Contract shall conform to all latest local, state, and federal safety requirements and shall, in all cases, meet OSHA requirements. It shall be the Contractor's responsibility to ensure complete compliance with these requirements. The selected Contractor is required to know the applicable general and local codes, statutes, ordinances, rules standards, guidelines promulgated by any government agency that controls or affects the work. Should the Contract Documents have specifications, drawings, figures, footnotes etc. that violates any of the general or local codes, statutes, rules or regulations, such Contract Documents are considered to contain errors, inconsistencies, or omissions requiring the Contractor, under this Section, to report them to the DTA Procurement Manager as soon as discovered, or should have been discovered had the Contractor exercised Due Diligence as required herein. Failure to report

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items in the Contract Documents that violate federal state or local codes, statutes, rules, or regulations voids any claim the Contractor may have based on the errors and subjects the Contractor to the liability for such errors or omissions.

G-16 DISPOSITION OF RESPONSES

All materials submitted in response to this RFP will become the property of the DTA and will become public record in accordance with Minnesota Statutes §13.591 after the award process is complete. Pursuant to the statute, If a Proposer submits information in response to this RFP that it believes to be trade secret materials as defined by the Minnesota Government Data Practices Act, Minnesota Statutes §13.37, the Proposer must:

- Clearly mark all trade secret materials in its Proposal at the time of Proposal submittal
- Include a statement with the Proposal justifying the trade secret designation for each item;
- Respondent may not declare the entire Proposal confidential; and
- Defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the DTA, ATE Management of Duluth, and First Group Management, Inc., and their agents and employees, from any judgements or damages awarded against the DTA, ATE Management of Duluth, and First Group Management, Inc. in favor of the party requesting the materials, and all and all costs connected with that defense. This indemnification survives the DTA's award of a Contract. In submitting a Proposal in response to this RFP, the Proposer agrees that this indemnification survives as long as the trade secret materials are in possession of the DTA. DTA is required to keep all basic documents related to its contracts, including responses to RFPs, for a minimum of seven years. Notwithstanding the above, the above DTA may determine those items marked as trade secret materials to be public under MN Government Data Practices Act Minnesota Statutes, Chapter 13.

G-17 PROTEST PROCEDURES

Protests will only be accepted from prospective Proposers or offerors whose direct economic interest would be affected by the award of a Contract or refusal to award a Contract. The General Manager will consider all such protests, whether submitted before or after the award of a contract. If oral objections are raised and the matter cannot be resolved to the satisfaction of the objector, a written protest shall be required before any further consideration is given. Protest submissions should be concise, logically arranged, and clearly state the grounds for the protest. Protest must include at least the following information:

- Name, address, and telephone number of protestor
- Identification of the solicitation or contract number
- A detailed statement of the legal and factual grounds of protest including copies of relevant documents
- A statement as to what relief is requested

All protest documents received by the General Manager shall be stamped with date and time received and logged into a protest file folder with a copy to the Master File.

PROTESTS BEFORE AWARD

Protests before award must be submitted within the time as specified herein. If the written protest is not received by the time specified, the evaluation process shall continue in the normal manner unless the Finance Director, upon investigation, finds that remedial action is desirable, in which event such action shall be taken.

The protests addressing the adequacy of Invitation for Bids, RFPs, including, without limitation, the pre-award procedure, the Instructions to Bidders or Proposers, General Terms and Conditions, Technical Specifications and Scope of Work, must be filed at the Finance Department no later than three days before

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the scheduled opening date or the bid or proposal. Thereafter, such issues are deemed waived by all interested parties.

Notice of protest and the basis therefor shall be given to all bidders or proposers. In addition, when a protest against the making of an award is received and the Finance Director determines to withhold the award pending disposition of the protest, the bidders or proposers whose bids or proposals might become eligible for award shall be requested, before expiration of the time for acceptance of their bids or proposals, to extend the time for acceptance (with consent of sureties, if any) to avoid the need for readvertising.

When a written protest against the making of an award is received, award shall not be made until five days after the matter is resolved, unless the General Manager determines that:

- the items to be procured are urgently required; or
- delivery or performance will be unduly delayed by failure to make the award promptly; or
- failure to make prompt award will otherwise cause undue harm to DTA or the State or the Federal Government.

In the event the General Manager determines that the award is to be made during the five-day period or during the pendency of protest, he/she shall notify the FTA prior to make such award. FTA preserves the right not to participate in such procurement.

If award is made, the Finance Director shall document the file to explain the need for an award, and shall give written notice of the decision to proceed with the award to the protestor and, as appropriate, to others concerned.

PROTESTS AFTER AWARD

Protests against award must be filed at the Finance Department within five days immediately following the award. The Finance Director shall review the protests. The contractor shall be furnished with the notice of protest and the basis therefor. Also, when it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to DTA's interest, the Finance Director shall inform the contractor that DTA will not be responsible if the award is set aside and that the contractor proceeds with performance at his/her own risk.

DECISION ON PROTEST

The General Manager shall render his/her decision in writing within 14 days from the receipt of the written protest and shall provide written notice of such decision to all interested parties.

Following an adverse decision by the General Manager, the protestor may file a protest with FTA. For details, see FTA Circular 4220.1F, as amended, which states that FTA will only review protests regarding the alleged failure of a grantee (here, the DTA) to have written protest procedures or alleged failure to follow such procedures. See also 2 C.F.R. Part 200.

G-18 ORGANIZATION CONFLICTS OF INTEREST

- a. An organization conflict of interest means that because of other activities or relationships with other persons or entities, a Contractor is unable, or potentially unable to render impartial assistance or advice to the DTA, or the Contractor's objectivity in performing the Contract work is, or might be otherwise impaired, or the Contractor has an unfair competitive advantage. Organizational conflict of interest includes situations where the capacity of a Contractor (including the Contractor's executives, directors, consultants, subsidiaries, parent companies or subcontractors) to give impartial, technically sound advice or objective assistance is or may be impaired or may otherwise result in a biased work product because of any past, present or planned interest, financial or otherwise, in the DTA.

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- b. The Contractor is responsible for maintaining and providing up to date conflict of interest information to the DTA's Director of Finance. If, after award of this Contract or task order, the Contractor discovers a conflict of interest with respect to this Contract or task order which could not reasonably have been known prior to award, or if any additional conflicts or potential conflicts arise after award, the Contractor shall give written notice to the DTA's Director of Finance as set forth below.
- c. The Contractor's notice called for in paragraph 2 above shall describe the actual, apparent or potential conflict of interest, the action(s) the Contractor has taken or proposes to take to avoid or mitigate any conflict and shall set forth any other information which the Contractor believes would be helpful to the DTA's Director of Finance in analyzing the situation.
- d. The Contractor has the responsibility of formulating and forwarding a proposed mitigation plan to the DTA's Director of Finance, for review and consideration. This responsibility arises when the Contractor first learns of an actual, apparent, or potential conflict of interest. Corporate counsel review of the proposed mitigation plan is necessary to ensure a timely review and final determination by the DTA's Director of Finance.
- e. If the DTA's Director of Finance, in his/her discretion, determines that the Contractor's actual, apparent or potential conflict of interest remains, or the measures proposed are insufficient to avoid or mitigate the conflict, the DTA's Director of Finance will direct a course of action to the Contractor designed to avoid, neutralize, or mitigate the conflict of interest. If the parties fail to reach agreement on a course of action, or if having reached such agreement the Contractor fails to strictly adhere to such agreement during the remaining period of contract performance, the DTA's Director of Finance has the discretion to terminate the contract for default. No determination by the DTA's Director of Finance under this clause shall be reviewable under FAR Clause 52.233-1, "Disputes Clause (MAY 2014)," which is also incorporated by reference herein.
- f. The Contractor's misrepresentation of facts in connection with a conflict of interest reported or a Contractor's failure to disclose a conflict of interest as required shall be a basis for default termination of this Contract.

G-19 TAXES

All local sales and use taxes which are due are to be paid by the Contractor and should be included in the Proposal price. The DTA is exempt from payment of the Federal excise, transportation tax, Minnesota State sales tax and City of Duluth City sales tax. The Proposer shall include sales tax for materials included in its Proposal and shall retain records of the amount of sales tax paid for materials for DTA review. The DTA may, at its sole discretion, elect to purchase and take immediate possession of the materials directly for incorporation into the project. An IC134 form completed by the MN Department of Revenue is required with the final application for payment.

Unless a Certificate of Exemption is provided, any out of state Proposer receiving a Proposal award will have eight percent (8%) retained from invoice payments on any contracts over \$50,000.

G-20 PROMPT PAYMENT TO SUBCONTRACTORS.

In accordance with Minnesota § 337.10 (3), Contractor shall pay any subcontractor or material supplier within ten (10) days of receipt by the party responsible for payment of payment of undisputed services provided by the party requesting payment. The Contractor shall pay interest of at least one and one-half percent (1-1/2%) per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the party responsible for payment shall pay the actual penalty due to the party requesting payment. A party requesting payment who prevails in a civil action to collect interest penalties from a party responsible for payment must be awarded its costs and disbursements, including attorney's fees incurred in bringing the action.

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Contractor shall further require this provision to be included in all contracts between subcontractors and sub-subcontractors of any tier.

G-21 SUBCONTRACTOR REPORTING

- a. The Contractor shall disclose all Subcontractors and their involvement in the project at the time of Proposal submittal.
- b. The Contractor shall ensure that procurement activities for its Subcontractors (of any tier) and Suppliers on the project comply with the DTA’s guidelines and requirements. The DTA reserves the right to reject any Subcontractor (of any tier) or Supplier without cause, and prior to award, upon notice from the DTA Procurement Manger, Contractor shall seek a different Subcontractor or Supplier in compliance with the above provisions.
- c. The Contractor shall insert the required Federal and State provisions into every subcontract, along with the applicable prevailing wage determination(s) and require submission of weekly reports in accordance with the specifications herein.
- d. In the event a subcontractor (of any tier) or supplier is found in default of any applicable federal, state or local law, ordinance, regulation or requirement promulgated by any agency as it relates to the project, or in default of their contract, Contractor shall immediately report such default to the DTA in writing along with any documents, reports or other information pertinent to the default.

G-23 SINGLE RESPONSE

If only one Proposal is received in response to this RFP, a detailed cost/price analysis may be requested of the Proposer. A cost or cost and price analysis and evaluation, and/or audit of the cost may be performed in order to determine if the price is fair and reasonable. If the DTA Procurement Manager determines a cost analysis is required, the Proposer must be prepared to provide, upon request, cost summaries of estimated costs (i.e., labor, equipment, supplies, overhead, etc.) and documentation supporting all cost elements.

SIGNIFICANT DATES OF PROCUREMENT

Item	Date	Time
Date of Release	April 11, 2023	
Preproposal Meeting	April 20 , 2023	10:00 a.m.
Request for Clarifications	May 3, 2023	2:00 pm
Response to Clarifications	May 5, 2023	10:00 a.m.
Proposal Opening	May 11, 2023	1:00 pm
Award	May 31, 2023	

Section 2.

FEDERAL TRANSIT ADMINISTRATION Contract Clauses

A.1 ACCESS TO RECORDS **49 U.S.C. § 5325(g)**

- a. Records Retention. The Contractor will retain, and will requires its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract; including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
- b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation claims or exceptions related thereto.
- c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this Contract as reasonably may be required.

A.2 BONDING REQUIREMENTS **2 CFR §200.325** **31 CFR Part 223**

Does not apply to this procurement

A.3 BUS TESTING **49 U.S.C. 5318(E), 49 CFR Part 665** Does not apply to this procurement

A.4 BUY AMERICA REQUIREMENTS **49 U.S.C. 5323 (J), 49 CFR Part 661** Does not apply to this procurement

A.5 CARGO PREFERENCE REQUIREMENTS **46 U.S.C. §55.05; 46 C.F.R. Part 381** Does not apply to this procurement

A.6 CHARTER SERVICE 49 U.S.C.5323(d) and (r); 49 C.F.R. Part 604 Does not apply to this procurement

A.7 CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT **49 U.S.C §§7401-7671q; 33 U.S.C §§1251-1387** **2 C.F.R. Part 200, Appendix II (G)**

The Contractor agrees:

1. It will not use any violating facilities
2. It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
3. It will report violations of use of prohibited facilities to FTA; and
4. It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§7401-7671q); and the Federal Water Pollution Control Act as amended (33 U.S.C. §§1251-1387.)

A.8 CIVIL RIGHTS LAWS AND REGULATIONS **Civil Rights and Equal Opportunity**

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The Duluth Transit Authority is an Equal Opportunity Employer. As such, the Duluth Transit Authority agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Duluth Transit Authority agrees to comply with the requirements of 49 U.S.C. §5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. §5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment", September 24, 1965, 42 U.S.C. §2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. §2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6101 *et. Seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. Part 90, and Federal transit law at 49 U.S.C. §5332, the Contractor agrees to refrain from discrimination against present and prospective employees for the reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §12101 *et. Seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §4151 *et. Seq.*, and Federal transit law at 49 U.S.C. §4332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**A.9 DISADVANTAGED BUSINESS ENTERPRISE (DBE)
49 CFR Part 26**

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

1. ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26. Therefore, the Contractor must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. The Duluth Transit Authority shall make all determinations with regard to whether or not a Bidder/Offeror is in compliance with the requirements stated herein. In assessing compliance, the Duluth Transit Authority may consider during its review of the Bidder/Offeror's submission package, the

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Bidder/Offeror/s documented history of non-compliance with DBE requirements on previous contracts with the Duluth Transit Authority.

Contractor Assurance

The contractor, subrecipient 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 Duluth Transit Authority deems appropriate, which may include, but is not limited to:

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

DBE Participation

For purposes of this Contract, the Duluth Transit Authority will only accept DBEs who are:

1. Certified at the time of the bid opening or proposal evaluation by the Unified Certification Program; or
2. An out of state firm who has been certified by either a local government, state government or Federal government entity authorized to certify DBE status or an agency whose DBE certification process has received FTA approval; or
3. Certified by another agency approved by the Duluth Transit Authority.

DBE Participation Goal

There is no DBE participation goal for this Contract.

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the Duluth Transit Authority or in accordance with state statutes, whichever if more restrictive. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days (or in accordance with state law, whichever is more restrictive) after the subcontractor's work related to this contract is satisfactorily completed.

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

A.10 EMPLOYEE PROTECTIONS

49 U.S.C. §5333(a), 40 U.S.C. §§3141-3148

29 C.F.R. Part 5, 18 U.S.C. §874

29 C.F.R. Part 3, 40 U.S.C. §§3701-3708, 29 C.F.R. Part 1926

Prevailing Wage and Anti-Kickback

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

Contract Work Hours and Safety Standards

For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 C.F.R. part 5. Under 40 U.S.C. § 3702 of the Act, the Contractor shall compute the wages of every

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mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

In the event of any violation of the clause set forth herein, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

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

A.11 ENERGY CONSERVATION REQUIREMENTS
42 U.S.C. 6321 et seq.; 49 CFR Part 622, Subpart C

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

A.12 FLY AMERICA
49 U.S.C. §40118, 41 C.F.R. Part 301-10
48 C.F.R. Part 47.4

Does not apply to this procurement

A.13 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

2 C.F.R. Part 180, 2 C.F.R. Part 1200, 2 C.F.R. §200.213

2 C.F.R. Part 200, Appendix II (I)

Executive Order 12549, Executive Order 12689

Debarment, Suspension, Ineligibility and Voluntary Exclusion

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit(irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;

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- e) Voluntarily excluded from participation in any federally assisted Award; or
f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Duluth Transit Authority. If it is later determined by the Duluth Transit Authority that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Duluth Transit Authority, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer.

The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**A. 14 LOBBYING RESTRICTIONS
31 U.S.C. 1352, 2 CFR §200.450
2 C.F.R. Part 200 Appendix II (J), 49 C.F.R. Part 20**

Lobbying Restrictions

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

A.15 NO GOVERNMENT OBLIGATION TO THIRD PARTIES

No Federal Government Obligation to Third Parties.

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

**A.16 PATENT RIGHTS AND RIGHTS IN DATA
2 C.F.R. part 200, Appendix II (F); 37 C.F.R. part 401
Does not apply to this procurement**

A.17 PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

49 U.S.C. 5323 (m), 49 C.F.R. Part 663
Does not apply to this procurement

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A.18 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

49 U.S.C. § 5323(l) (1), 31 U.S.C. §§ 3801-3812

18 U.S.C. § 1001, 49 C.F.R. part 31

Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

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

A.19 PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

49 U.S.C. § 5333(b) ("13(c)", 29 C.F.R. part 215

Does not apply to this procurement

A.20 RECYCLED PRODUCTS

42 U.S.C. § 6962 , 40 C.F.R. part 247; 2 C.F.R. part § 200.322

Recovered Materials

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

A.21 SAFE OPERATION OF MOTOR VEHICLES

23 U.S.C. part 402, Executive Order No. 13043

Executive Order No. 13513, U.S. DOT Order No. 3902.10

Seat Belt Use

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

Distracted Driving

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

A.22 SCHOOL BUS OPERATIONS

49 U.S.C. 5323(f), 49 C.F.R. part 605

Does not apply to this procurement

A.23 SEISMIC SAFETY

42 U.S.C. 7701 *et seq.*, 49 C.F.R. part 41

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Executive Order (E.O.) 12699
Does not apply to this procurement

A.24 SUBSTANCE ABUSE REQUIREMENTS

49 U.S.C. § 5331, 49 C.F.R. part 655
49 C.F.R. part 40
Does not apply to this contract

A.25 TERMINATION

2 C.F.R. § 200.339, 2 C.F.R. part 200, Appendix II (B)

Termination for Convenience (General Provision)

The Duluth Transit Authority may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Duluth Transit Authority'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 the Duluth Transit Authority to be paid the Contractor. If the Contractor has any property in its possession belonging to the Duluth Transit Authority, the Contractor will account for the same, and dispose of it in the manner the Duluth Transit Authority directs.

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

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Duluth Transit Authority may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

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

Opportunity to Cure (General Provision)

The Duluth Transit Authority, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) 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 to cure the defect.

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

Waiver of Remedies for any Breach

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

Termination for Default (Supplies and Service)

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

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

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Termination for Convenience or Default (Cost-Type Contracts)

The Duluth Transit Authority 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 the Duluth Transit Authority or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Duluth Transit Authority, or property supplied to the Contractor by the Duluth Transit Authority. If the termination is for default, the Duluth Transit Authority may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Duluth Transit Authority and the parties shall negotiate the termination settlement to be paid the Contractor.

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

If, after serving a Notice of Termination for Default, the Duluth Transit Authority determines that the Contractor has an excusable reason for not performing, the Duluth Transit Authority, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

A.26 VIOLATION AND BREACH OF CONTRACT

2 C.F.R. § 200.326, 2 C.F.R. part 200, Appendix II (A)

Rights and Remedies of the Duluth Transit Authority

The Duluth Transit Authority shall have the following rights in the event that the Duluth Transit Authority deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

Rights and Remedies of Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the Duluth Transit Authority, the Contractor expressly agrees that no default, act or omission of the Duluth Transit Authority shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the Duluth Transit Authority directs Contractor to do so) or to suspend or abandon performance.

Remedies

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, the Duluth Transit Authority will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Agreement by the Contractor before the Duluth Transit Authority takes action contemplated herein, the Duluth Transit Authority will provide the Contractor with sixty (60) days written notice that the Duluth Transit Authority considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

Disputes

- **Example 1:** Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the Duluth Transit Authority's Procurement Manager. This decision shall be final and conclusive unless within 10 days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Duluth Transit Authority General Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the General Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.
- **Example 2:** The Duluth Transit Authority and the Contractor intend to resolve all disputes under this Agreement to the best of their abilities in an informal manner. To accomplish this end, the parties will use an Alternative Dispute Resolution process to resolve disputes in a manner designed to avoid litigation. In general, the parties contemplate that the Alternative Dispute Resolution process will include, at a minimum, an attempt to resolve disputes through communications between their staffs, and, if resolution is not reached at that level, a procedure for review and action on such disputes by appropriate management level officials within the Duluth Transit Authority and the Contractor's organization.

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In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Duluth Transit Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the Duluth Transit Authority's direction or decisions made thereof.

Performance during Dispute

Unless otherwise directed by the Duluth Transit Authority, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies

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

Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Duluth Transit Authority or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing

A. 27 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

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

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

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

Covered telecommunications equipment or services means—

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

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(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

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

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

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

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

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

(b) *Prohibition.*

**Duluth Transit Authority
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(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the DTA on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#).

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#). This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

(c) *Exceptions.* This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

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A. 29) Notice of Legal Agreement or Litigation

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

Contractor shall promptly notify the Duluth Transit Authority of any current or prospective legal matter that may affect the Duluth Transit Authority or the Federal Government. Legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Duluth Transit Authority or the Federal Government as a party to litigation or any legal agreement in any forum for any reason.

This notification provision applies to instances of false claims under the False Claims Act, or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Contractor is subject to this Agreement between the Contractor and the Duluth Transit Authority or the Federal Transit Administration, or an agreement involving a principal, officer, employee, agent or subcontractor of the Contractor.

Knowledge, as it is used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Contractor. In this paragraph, "promptly" means to refer to information without delay and without change.

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 clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

DULUTH TRANSIT AUTHORITY

CONTRACT Example for

Bus Operator Uniforms

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Section 3. Contract (example for Proposal)

This Contract, made this ____ day of ____, 2023, by and between _____, a _____ (corporation) _____, hereafter referred to as “Contractor”, and the Duluth Transit Authority, 2402 W. Michigan St., Duluth, MN, hereafter referred to as “DTA”. The DTA and Contractor agree as set forth below.

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents in priority order consist of Federal Transit Administration Contract Clauses, this Contract; Request for Proposals (Procurement # 052-23-2023.4) dated April 11, 2023, General, Special and Technical Specifications and Drawings; prevailing wage schedules, all addenda issued prior to and all modifications issued after execution of the Contract; and the executed Proposal form and Required Certificates, all as fully a part of the Contract as if attached to this Contract or repeated herein.

ARTICLE 2 THE WORK

The Contractor shall perform the work required by the Contract Documents for this Request for Proposal in accordance with the generally accepted standards of the profession for services of this type.

ARTICLE 3 TERM

The Work to be performed under this Contract shall begin upon “notice to proceed” from the DTA and completed no later than May 31, 2026, unless otherwise terminated as set forth herein.

At least 120 days prior to the end of the Initial Term of the Contract, the DTA may, at its sole discretion, extend the Term of this Contract for a period of three years, from June 1, 2026 through May 31 31, 2029, upon written notice to the Contractor from the DTA to exercise the option period.

ARTICLE 4 CONTRACT SUM

The DTA shall pay the Contractor in current funds for the performance of the work, subject to additions and deductions by Change Orders as provided in the Contract Documents in the amount accepted.

ARTICLE 5 PAYMENTS TO CONTRACTOR

The DTA will reimburse Contractor based on monthly billings for service. DTA may withhold payment for Contractor’s services where the services are in dispute, where the services or any claimed reimbursable expenses are not documented or warranted, or when the service was not performed in accordance with the terms of the Contract Documents. Retainage will be held on payments until all conditions of final payment are met.

Terms of payment shall be thirty (30) days net from the conclusion of the month for which payment is due, unless a discount for earlier payment is solicited by the DTA and offered by the Contractor.

ARTICLE 6 INVOICES

All invoices shall include supporting documentation of the quantities and details to the DTA’s Director of Finance’s satisfaction to support the pay request. Invoices should be forwarded to:
Duluth Transit Authority

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Director of Finance
2402 West Michigan Street
Duluth, MN 55806

ARTICLE 7 DELAYS

Contractor shall notify DTA in writing of any delays, including all relevant details, immediately upon encountering any difficulties which threaten to delay the timely performance of this Contract, and may at that time or subsequently request an extension of the delivery date or schedule. However, such notification or request or acceptance of belated equipment shall not constitute acceptance of the delay or request for extension, without prior written acceptance by DTA as a change in the Contract.

ARTICLE 8 CONTRACTOR CHANGES

The DTA or the Contractor may, from time to time, request changes in the scope of the services to be performed hereunder. Such changes, including the increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the DTA and the Contractor, shall be incorporated in written amendments to the Contract.

ARTICLE 9 INDEMNIFICATION

The Contractor shall defend, indemnify and save the DTA and ATE Management of Duluth, Inc. harmless from all costs, charges, damages, and loss of any kind that may grow out of the matter covered by this Contract. Said obligation does not include indemnification of the DTA and ATE Management of Duluth, Inc., for claims of liability arising out of the sole negligent or intentional acts or omissions of DTA and ATE Management of Duluth, Inc. but shall include, but not be limited to, the obligation to defend, indemnify and save harmless the DTA and ATE Management of Duluth, Inc. in all cases where claims of liability against the DTA and ATE Management of Duluth, Inc. arise out of acts or omissions of Contractor, such as, and including but not limited to, the failure to supervise, the failure to warn, the failure to prevent such act or omission by Contractor and other of such source of liability. In addition, Contractor will comply with all local, state and federal laws, rules and regulations applicable to this Contract and to the work to be done and things to be supplied hereunder.

ARTICLE 10 INSURANCE

a. Contractor shall provide the following minimum amounts of insurance from insurance companies authorized to do business in the state of Minnesota, which insurance shall indemnify Contractor and DTA and ATE Management of Duluth, Inc. from all liability described in the paragraph above.

- (1) Workers' compensation in accordance with the laws of the state of Minnesota.
- (2) Public Liability and Automobile Liability Insurance with limits not less than \$2,000,000 Single Limit and twice the limits provided when a claim arises out of the release or threatened release of a hazardous substance, shall be in a company with an "AM BEST" rating of A-(minus); Financial Size Category (FSC) VII or better and must be authorized in the State of Minnesota; and shall provide for the following: Premises and Operations Bodily Injury and Property Damage, Personal and Advertising Injury, Blanket Contractual Liability, Product and Completed Operations Liability, and Independent Contractors Liability.

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- (3) Professional Liability insurance of not less than \$2,000,000.
- (4) DTA and ATE Management of Duluth, Inc. shall be named as an **Additional Insured** under the Public Liability, Excess/Umbrella Liability* and Automobile Liability, or as an alternate, Contractor may provide Owners-Contractors Protective policy, naming itself and the DTA and ATE Management of Duluth, Inc. Contractor shall also provide evidence of Statutory Minnesota Worker's Compensation Insurance. Contractor to provide Certificate of Insurance evidencing such coverage with 30-days' notice of cancellation, non-renewal or material change provisions included. The DTA does not represent or guarantee that these types or limits of coverage are adequate to protect the Contractor's interests and liabilities.

**An umbrella policy with a "following form" provision is acceptable if written verification is provided that the underlying policy names the DTA and ATE Management of Duluth, Inc. as an additional insured.*

- (5) If a certificate of insurance is provided, the form of the certificate shall contain an unconditional requirement that the insurer notify the DTA without fail not less than thirty (30) days prior to any cancellation, non-renewal or modification of the policy or coverages evidenced by said certificate and shall further provide that failure to give such notice to DTA will render any such change or changes in said policy or coverages ineffective as against the DTA and ATE Management of Duluth, Inc.
- b. The insurance required herein shall be maintained in full force and effect during the life of this Contract and shall protect Contractor, its employees, agents and representatives from claims and damages including but not limited to personal injury and death and any act or failure to act by Contractor, its employees, agents and representatives in the negligent performance of work covered by this Contract.
 - c. Certificates showing that Contractor is carrying the above-described insurance in the specified amounts shall be furnished to the DTA prior to the execution of this Contract and a certificate showing continued maintenance of such insurance shall be on file with the DTA during the term of this Contract.
 - d. Contractor shall be required to provide insurance meeting the requirements of this Paragraph unless Contractor successfully demonstrates to the satisfaction of the City Attorney, in the exercise of his or her discretion, that such insurance is not reasonably available in the market. If Contractor demonstrates to the satisfaction of the City Attorney that such insurance is not reasonably available, the City Attorney may approve an alternative form of insurance which is reasonably available in the market which he or she deems to provide the highest level of insurance protection to the DTA and ATE Management of Duluth, Inc.
 - e. The Contractor's policy(ies) will be primary to any other valid and collectible insurance available to the DTA with respect to any claim arising out of the performance under this Contract.

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- f. The Contractor is responsible for payment of Contract-related insurance premiums and deductibles.
- g. If the Contractor is self-insured, a Certificate of Self-Insurance must be provided to the DTA, for the DTA's approval in a form and amount acceptable to the City Attorney. Contractor shall be required to provide insurance meeting the requirements of this Paragraph unless Contractor successfully demonstrates to the satisfaction of the City Attorney, in the exercise of his or her discretion, that such insurance is not reasonably available in the market. If Contractor demonstrates to the satisfaction of the City Attorney that such insurance is not reasonably available, the City Attorney may approve an alternative form of insurance which is reasonably available in the market which he or she deems to provide the highest level of insurance protection to the DTA and ATE Management of Duluth, Inc.

ARTICLE 11 RECORDS AND INSPECTIONS

- a. **Establishment and Maintenance of Records**
Records shall be maintained by Contractor in accordance with requirements prescribed by DTA and with respect to all matters covered by this Contract. Such records shall be maintained for a period of six (6) years after receipt of final payment under this Contract.
- b. **Documentation of Costs**
Contractor will ensure that all costs shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.
- c. **Reports and Information**
Contractor shall be responsible for furnishing to DTA records, data and information as DTA may require pertaining to matters covered by this Contract.
- d. **Audits and Inspections**
Contractor shall ensure that at any time during normal business hours and as often as DTA may deem necessary, there shall be made available to DTA for examination, all of its records with respect to all matters covered by this Contract. Contractor will also permit DTA to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Contract.
- e. **Confidentiality of Information**
Contractor must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the DTA under this Contract, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by Contractor under this Contract. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data referred to in this clause by the Contractor. If Contractor receives a request to release the data referred to in this clause, Contractor must immediately notify the DTA and consult with the DTA as to how Contractor should respond to the request. Contractor's response to the request must comply with applicable law.
- f. **Ownership of Data**

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All survey notes, reports, design plans, specifications, special studies, records and other data prepared under this Contract shall become the property of DTA when prepared and shall be delivered to the DTA upon completion or termination of the services of Contractor or at such earlier time as requested by the DTA.

ARTICLE 12 INDEPENDENT CONTRACTOR

That at all times and for all purposes hereunder, Contractor shall be an independent contractor and is not an employee of the DTA for any purpose. No statement contained in this Contract shall be construed so as to find Contractor to be an employee of the DTA, and Contractor shall not be entitled to any of the rights, privileges, or benefits of employees of the DTA, including, but not limited to, workers' compensation, health/death benefits, and indemnification for third-party personal injury/property damage claims.

ARTICLE 13 COMMUNICATIONS

Telephone calls may be used to expedite communications but shall not be official communication unless confirmed in writing. Communications in connection with this Contract shall be in writing and shall be delivered personally; or by e-mail; or by regular, registered, or certified mail addressed to the officer(s) or employee(s) of the DTA and of the Contractor designated to receive such communications.

Designation for DTA

Designation for Bidder

DTA Human Resources Manager

ARTICLE 14 EXTENT OF AGREEMENT

This Contract represents the entire and integrated agreement between the DTA and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both DTA and Contractor.

ARTICLE 15 GOVERNING LAW

This Contract shall be governed by the applicable laws of the City of Duluth and State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in St. Louis County, Minnesota. However, litigation in Federal Courts involving the parties shall be in the appropriate federal court in the State of Minnesota.

ARTICLE 16 RIGHTS AND REMEDIES

The duties and obligations imposed by the Contract and the rights and remedies available hereunder shall be in addition to any duties, obligations, rights and remedies otherwise imposed or available by law.

ARTICLE 17 NO THIRD PARTY RIGHTS

This Contract is to be construed and understood solely as a Contract between the DTA and the Contractor and shall not be deemed to create any rights in any other person. No person shall have the right to make claim that she or he is a third-party beneficiary of this Contract or of any of the terms and conditions hereof, which, as between the DTA and Contractor, may be waived at any time by mutual agreement.

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ARTICLE 18 CANCELLATION

The DTA shall have the right to cancel this Contract if the DTA’s governing body does not appropriate moneys to the department or agency in an amount equal to the cost of this Contract.

ARTICLE 19 SEVERABILITY

In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the parties to this Contract.

ARTICLE 20 COUNTERPARTS

This Contract may be executed in two or more counterparts, each of which shall be deemed an original as against any party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this Contract transmitted by facsimile, by electronic mail in “portable document format” (“pdf”) or by any other electronic means which preserves the original graphic and pictorial appearance of the Contract shall have the same effect as physical delivery of the paper document bearing an original signature.

This Contract entered into as of the day and year first written above.

By: Duluth Transit Authority

By:

General Manager

Title: _____

Proposal Sheets

DULUTH TRANSIT AUTHORITY

Bus Operator Uniforms

April 11, 2023

**Duluth Transit Authority
Bus Operator Uniforms**

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Section 4. FORMAL PROPOSAL SHEET Bus Operator Uniforms

NOTE: All Proposals must be written, signed and transmitted via a .pdf attachment in an email addressed to nbrown@duluthtransit.com (preferred), or in a sealed envelope, plainly marked with Proposal number, subject matter and opening date.

Price quoted shall be for standard sizes XS-XL and includes embroidering and sewing on patches. Extra charges for Big and Tall Sizes, or Plus Sizes shall be noted for each category that Big and Tall or Plus sizes are offered.

Proposers should include the following:

- a. An itemized Cost Proposal Sheet (see the attachment)
- b. Three references with contact information.
- c. All required forms and certifications herein.

Firm Name: _____

Mailing Address:

CITY STATE ZIP CODE

By: _____
(PRINT NAME) TITLE

Signature: _____

Email: _____

System for Award Management Unique ID Number: _____

Addendum Acknowledgment
Number Date Rec'd

PHONE NO. _____

**Duluth Transit Authority
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4.1 Proof of Responsibility Statement

The Duluth Transit Authority requires anyone submitting a bid or proposal to complete a sworn statement consisting of information relating to their capacity to complete the work requested, including financial stability, equipment, experience in the work prescribed, etc. If the Duluth Transit Authority is not satisfied with the sufficiency of the answers to the questionnaire and financial statement, it may reject the bid or disregard the same or require additional information. Attach separate sheets as necessary.

Statement of Bidder Qualifications and Responsibility

1. Name of Bidder or Proposer: _____
2. Address: _____
3. Legal form of company (partnership, corporation, joint venture, etc.) _____ (If a joint venture, identify the members of the joint venture and provide all information required in this section for each member.)
4. When Organized: _____
5. Where Incorporated (as applicable): _____
6. How many years has the firm or organization been engaged in the contracting business under the present firm name? _____

Questions 7-13: If the answer is 'Yes', please provide details in a separate attachment.

7. Have you ever failed to complete any work awarded to you? No ___ Yes ___
8. Have you ever defaulted on a contract? No ___ Yes ___
9. Have you ever been sued for services you provided? No ___ Yes ___
10. Has your firm been charged with or convicted of, a violation of a wage schedule?
No ___ Yes ___
11. Does your organization possess all valid licenses, registrations and certifications required by federal, state, county or city law necessary for the work it seeks to perform? No ___ Yes ___
12. Has your organization had any type of business, contracting or trade license, certification or registration revoked or suspended in the last three years? No ___ Yes ___
13. Is your firm or organization a part of a multi-entity corporation, a wholly-owned subsidiary, or more than 51% owned by another firm or organization? No ___ Yes ___ If yes, provide documentation on the parent organization, audited statements of financial standing, working capital financing, authorization to enter into contracts, and other proof of responsibility.
14. Does your firm have experience in similar type of projects or work, and have sufficient equipment, personnel, expertise, and financial reserves to perform the work successfully? No ___ Yes ___ (If no, please explain on a separate sheet. If yes, please provide the names and contact information of three (3) references.)
15. Has your firm or organization been a debtor in a bankruptcy proceeding in the last ten years?
No ___ Yes ___ If yes, on a separate sheet of paper titled "Bankruptcy Information", state date, court of jurisdiction, amount of liabilities and amount of assets.
16. List the average range of annual gross receipts of the firm or organization for the past three years:

___ Less than \$500,000	___ \$500,000 to \$1 million
___ between \$1 million and \$5 million	___ between \$5 million and \$10 million
___ between \$10 million and \$15 million	___ above \$15 million
17. Identify any conditions (e.g., pending litigation, planned office closures, impending merger, etc.) that may impede the proposed firm or organization's ability to complete the work.

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18. Please provide a Proof of Responsibility Statement for each subcontractor or supplier providing goods or services in excess of fifty thousand dollars (\$50,000.00) listed in the bid or proposal.

Warranty:

The Contractor,

- (i) if it is a corporation, is duly incorporated, organized, validly existing and in good standing as a corporation under of the laws of the jurisdiction of its incorporation;
- (ii) if it is a partnership, non-profit organization, individual or sole proprietorship, is duly organized and validly existing under the laws of the jurisdiction in which it was organized;
- (iii) is duly qualified and in good standing under the laws of each jurisdiction where its existing ownership, lease, or operation of property in the conduct of its business requires, and
- (iv) has the power and legal right to conduct the business in which it is currently engaged and
- (v) attests that the execution, delivery and performance of the Contract does not and will not violate any provision of any applicable existing law, regulation or of any order, judgment, award or decree of any court or government applicable to the Contractor or the charter or by-laws of the Contractor or any mortgage, indenture, or other obligation.

Signed:

Title _____

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4.2. Small or Disadvantaged Business Enterprise, Veteran-owned Business (including Service Disabled Veteran Business Enterprises)

- 1. Is the Contractor’s firm or organization registered as a Small Business under the Small Business Administration’s 8(a) Business Development Program, HUBZone business, or other development program through the SBA? No ____ Yes ____ (If yes, please provide a copy of the registration.)
- 2. Is the Contractor’s firm or organization certified or registered as a Small Business, a Disadvantaged Business Enterprise, or a Veteran-owned business (including Service-Disabled Veteran-owned business) by a government agency authorized to certify or register the above noted entities?

No ____ Yes ____ (If yes, please provide details and copies of the applicable registration or certification.)

The Contractor agrees to take all necessary steps to ensure that DBEs have the opportunity to compete for and perform work under this Contract.

The Contractor or Subcontractor shall not discriminate on basis of race, color, national origin or gender in the performance of this contract. Contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of U.S. DOT assisted contracts. Failure by the Contractor or Subcontractor to carry out these requirements is a material breach of the contract, which may result in the termination of this contract or such other remedy as the DTA deems appropriate.

Signed this ____ day of _____, 20 ____:

Title _____

4.3 Subcontractors and Suppliers Listing

List each subcontractor and/or supplier included in the bid or proposal, and include a Proof of Responsibility Statement for each subcontractor (of any tier) or supplier proposing to provide services or goods in excess of fifty thousand dollars (\$50,000. 00.) Subcontractors or Suppliers that are registered or certified S/DBEs must provide proof and the name of the certifying agency **prior to commencing work.**

Subcontractor: _____ Type of work: _____
S/DBE or Veteran owned? _____

Subcontractor: _____ Type of work: _____
S/DBE or Veteran owned? _____

Subcontractor: _____ Type of work: _____
S/DBE or Veteran owned? _____

Subcontractor: _____ Type of work: _____
S/DBE or Veteran owned? _____

Subcontractor: _____ Type of work: _____
S/DBE or Veteran owned? _____

Supplier: _____ Type of supply: _____
S/DBE or Veteran owned? _____

Supplier: _____ Type of supply: _____
S/DBE or Veteran owned? _____

Supplier: _____ Type of supply: _____
S/DBE or Veteran owned? _____

Supplier: _____ Type of supply: _____
S/DBE or Veteran owned? _____

Changes to this list must be in writing and approved by the Duluth Transit Authority **prior to the commencement of subcontractor or supplier's work.**

Signed: _____

Firm Name: _____

Section 5. REQUIRED CERTIFICATES

Certificate A. **DEBARRED BIDDERS**

Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters:

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in ay federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Duluth Transit Authority. If it is later determined by the Duluth Transit Authority that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Duluth Transit Authority, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer.

The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Print Name and Title

Signature

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Certificate B. COMPLIANCE WITH SPECIFICATIONS

The bidder hereby states that it will comply with the technical specifications issued by the Duluth Transit Authority in all areas except those where approved equals were granted by the purchaser (s).

SIGNED _____

FIRM NAME _____

CERTIFICATE C. **ANTI-LOBBYING DISCLOSURE**

APPENDIX A, 49 CFR PART 20—CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements
(To be submitted with each bid or offer exceeding \$100,000)

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

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Certificate D. Code of Ethics and Organizational Conflict of Interest

The respondent hereby states that it has read and will comply the DTA's Vendor Code of Ethics and Organizational Conflict of Interest (both on the DTA website) as well as the applicable Federal Clauses and Requirements contained herein.

SIGNED _____

FIRM NAME _____

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Certificate E. Notice of Legal Agreement or Litigation

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

Contractor shall promptly notify the Duluth Transit Authority of any current or prospective legal matter that may affect the Duluth Transit Authority or the Federal Government. Legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Duluth Transit Authority or the Federal Government as a party to litigation or any legal agreement in any forum for any reason.

This notification provision applies to instances of false claims under the False Claims Act, or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Contractor is subject to this Agreement between the Contractor and the Duluth Transit Authority or the Federal Transit Administration, or an agreement involving a principal, officer, employee, agent or subcontractor of the Contractor.

Knowledge, as it is used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Contractor. In this paragraph, "promptly" means to refer to information without delay and without change.

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 clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

TECHNICAL AND SPECIAL SPECIFICATIONS

FOR

Bus Operator Uniforms

April 11, 2023

Section 6. TECHNICAL SPECIFICATIONS FOR Bus Operator Uniforms

1. BACKGROUND

The Duluth Transit Authority is a public transportation bus system that operates fixed route and paratransit service seven days a week, 365 days a year. Vendor should be prepared to supply bus operator uniforms for up to 100 full-time bus drivers. The number of operators is subject to change and dependent upon DTA service needs.

In addition, the DTA employs administrative staff who can opt to have logo/embroidered shirts, sweaters or jackets.

The current uniform Contract expires May 31, 2023, and the DTA is seeking proposals from qualified firms for a new contract (there are no contractual issues with the current provider.) Quality of the product is important; a consistent, professional appearance facilitates customer recognition and safety. The DTA prefers to award one contract to a single supplier, however, if it is deemed to be in the best interest of the DTA, it reserves the right to pick and choose from the list of procured items, add and delete items and/or to order from multiple vendors.

2. ANNUAL ESTIMATES OF UNIFORM ITEMS REQUIRED

The DTA typically hires new bus operators 6 times per year; five to six operators each time.

a. Newly hired bus operators receive an initial compliment of uniforms as follows:

- One lightweight windproof jacket with a medium weight removable liner
- Two sweaters, cardigans, or pull over vests (long sleeve, sleeveless or one of each)
- Three trousers (slacks)
- Four shirts
- One pair of summer shorts (optional)

b. Items that are damaged in the line of duty or worn due to normal wear and tear are replaced by the DTA. On average, pants and shirts are replaced every two years. All items supplied by the contractor shall be durable and of sufficient quality to last approximately two years in regular use.

c. Average Annual Purchases

DTA does not guarantee the number of uniform items that will be necessary in any given year, nor does the DTA agree to purchase a minimum number of items.

In 2021, the DTA spent \$21,000 for uniforms, and \$43,000 in 2022.

3. QUALIFICATONS OF CONTRACTOR

a. Contractor must provide information regarding their background in the uniform supply business, references and other information that may be valuable in evaluating their proposal. Contractor must demonstrate its ability to supply DTA with proposed uniform items in a timely manner as ordered, have acceptable accounting and tracking practices, and have the special tailoring capabilities to meet the needs of the DTA. Contractor must have to ability to provide all uniform items. Contractor must have the ability to sew patches on clothing items and provide embroidery for various logos for clothing items.

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Contractor shall have a local service outlet within twenty (20) miles of the DTA Operating Facility, 2402 West Michigan Street, Duluth, MN 55806. Contractors who do not have a local service outlet must demonstrate how they will provide the required services. Mail, telephone or internet ordering is not acceptable.

4. QUALITY

Only new, unused, first quality garments shall be accepted under this contract. Contractor must provide documentation that all clothing items furnished are first quality and provide evidence of the durability for each item furnished. Contractor must have the ability to provide samples of all garments at the time of proposal; the DTA will request samples as needed. Failure to provide samples may deem the Proposer nonresponsive. All garments furnished except for jackets must be permanent press and be wash and wear.

5. REQUIRED ITEMS

Proposers wishing to submit alternatives should do so prior to May 3, 2023

Contractor shall propose items currently in use or equals of color and a similar style. DTA reserves the right to accept or reject proposed equals.

Current Bus Operator uniforms are as follows:

Description	SKU	Color	Vendor
Men’s Pants	RKPT60	Navy	Red Kap
Women’s Pants	RKPT61	Navy	Red Kap
Men’s Shorts	RKPT66	Navy	Red Kap
Women’s Shorts	RKPT67	Navy	Red Kap
Men’s Long Sleeve Shirt	PATLS508R	Royal	Port Authority
Men’s Short Sleeve Shirt	HS1210	Royal	Port Authority
Women’s Long Sleeve Shirt	HS1167	Royal	Port Authority
Women’s Short Sleeve Shirt	HS1268	Royal	Port Authority
Unisex Sweater Vest	ED561	Navy	Edwards
Unisex Sweater, Zip Up	ED381	Navy	Edwards
Unisex V-Neck Sweater	ED565	Navy	Edwards

6. Item Details:

PANTS OR TROUSERS

Style	Dress style
Fabric	Permanent press, wrinkle and stain resistant
Color	Navy
Wash Care	Color fast, machine washable
Sizes	Must be available in men’s and women’s sizing, tall size available, men’s sizes 28-inches to 54-inches, Misses sizes 4-18, Women’s sizes 18W – 28W
Design/ Construction	No-roll waistband, heavy duty brass zipper, hook and eye or button closure, extended fly lining, lined crotch,

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	flat front and pleated option, two front pockets, belt loops.
Logo	None
Example	Current style is Red Kap RKPT61NAV (women's) and RKPT60NAV (men's)

SHORTS

Style	Dress style
Fabric	Permanent press, wrinkle and stain resistant
Color	Navy
Wash Care	Color fast, machine washable
Sizes	Must be available in men's and women's sizing, tall size available, men's sizes 28-inches to 54-inches, Misses sizes 0-18, Women's sizes 18W – 28W
Design/ Construction	No-roll waistband, heavy duty brass zipper, hook and eye or button closure, extended fly lining, lined crotch, flat front and pleated option, two front pockets, belt loops.
Logo	None
Example	Current style is Red Kap RKPT67 (women's) and FKPT66 (men's)

LONG SLEEVE SHIRT BUS OPERTORS

Style	Dress style
Fabric	Cotton synthetic blend preferred, wrinkle and stain resistant
Color	Royal/Classic Navy
Wash Care	Color fast, machine washable fabric
Sizes	Must be available in men's and women's sizes, men's neck sizes 14-inches to 20 inches, sleeves regular and long, 32-inches to 37-inches, Women's sizes 4-20
Design/ Construction	Pockets, button down collar, seven button full front placket, one or two button cuff.
Misc.	Matching color buttons
Logo	Shirts may have logo patch or the logo embroidered.
Example	Port Authority PAS608ROY (women's) PATLS508ROCN (men's)

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SHORT-SLEEVE SHIRT, BUS OPERATOR

Style	Dress style
Fabric	Cotton synthetic blend preferred, wrinkle and stain resistant
Color	Royal/Classic Navy
Wash Care	Colorfast, machine washable,
Sizes	Must be available in men's and women's sizes, men's next sizes 14-inches to 20 inches, sleeves regular and long, 32-inches to 37-inches, Women's sizes 4-20
Design/ Construction	Pleated pockets, epaulets, scalloped flaps with hook and loop closure, button down collar, seven button full front placket.
Misc.	Matching color buttons
Logo	Shirts may have logo patch or the logo embroidered.
Example	Port Authority PAL508ROY (women's) PAS508ROY (men's)

SWEATERS AND VESTS

Style	Unisex 2-pocket zip front cardigan -Navy Long-sleeve Sweater, pullover, V-neck sleeveless vest
Fabric	Acrylic, or cotton/synthetic blend. 100% synthetic knot preferred. Pill resistant. Must be able to hold shape after repeated washings
Color	Navy
Wash Care	Machine washable, color fast
Sizes	Must accommodate men's and women's sizing, XS-5XL
Design/ Construction	Cardigan sweaters, ribbed trim at waist (sweater and vest) and cuffs (sweater).
Misc.	Matching color buttons
Logo	Sweater requires DTA patch logo
Example	Unisex 2-pocket zip front cardigan, Edwards 381, Edwards V-neck long sleeve, ED-565, Edwards V-neck sweater sleeveless vest, ED-561

JACKETS-Bus Operator

Style	Jacket with hood, reflective stripes desired, zip out liner
Fabric	Washable, durable and suitable for commercial use
Color	Navy

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Wash Care	Washable, stain release
Sizes	Must be able to accommodate men's and women's sizes XS-5X
Design/ Construction	Full-Length zipper, 2 pockets
Misc.	Removable liner
Logo	Sewn on right sleeve
Example	No examples currently

All proposed equals must have professional look, be durable, permanent press (except jackets and ties), washable and suitable for a professional bus operator.

7. SPECIAL CONDITIONS

- a. **Current Manufacture:** Uniforms proposed shall be new, unused, of current design and manufacture and free of defects or blemish. Any items found defective by the DTA shall be replaced by the Contractor at no cost to the DTA.
- b. **Material And Workmanship:**
- i. Only materials and workmanship of first quality are to be used. All items shall be those known as "firsts."
 - ii. All stitches on the uniforms must be of the proper tension and size to avoid puckering after the item has been laundered. Buttonholes shall be well made.
 - iii. The expected wear life intended for most garments under this contract is three (3) years. These represent the "core" garments, i.e. trousers, shirts. Outerwear garments, i.e., coats, sweaters and vests, etc., are expected to last five (5) years.
- c. **Equal Material:** Equal quality items will be considered. Proposers will be required to provide samples at the time of proposal submission upon request of the DTA Project Manager. Samples will be returned after completion of Proposal evaluation.
- d. **Prices:**
- i. Prices must be firm for the first three (3) years of the Contract as per the Proposal sheet. Thereafter, notification of price increases must be made in writing sixty (60) days in advance of any increase, but limited to the increase proposed. Price reductions shall be granted to the DTA whenever they become effective.
 - ii. Price quoted shall be for standard sizes XS-XL. Extra charges for Big and Tall Sizes, or Plus Sizes shall be noted on a separate sheet of paper for each category that Big and Tall or Plus sizes are offered. Men's Big and Tall sizes shall go to 5X.
- e. **Ordering:**
- i. An authorized DTA representative will send orders via email. The Contractor shall supply only the items listed on the order. The DTA will not be responsible for payment of any additional items or services in excess of the original order.

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ii. All deliveries must be complete within twenty-one (21) days from the date the garments are ordered. All garments delivered shall be complete with customizations. Customization includes, but is not limited to, affixing emblems and or embroidery.

iii. There should be no restrictions on the number of garments purchased under this Contract. However, purchases are limited to garments specified by the DTA unless otherwise approved in writing by the Project Manager. The purchase price of additional garments shall be at the same prices as those proposed through this Contract and shall be billed by the Contractor to the DTA. DTA employees shall be permitted to pay for extra garments or custom alterations not included in the proposal price with a personal check or a major credit card. The DTA shall have no responsibility for any uncollected funds from employees of the DTA.

iv. In the event an item listed on the order is unavailable and must be back ordered, the Contractor may request payment for delivered items. DTA understands that from time to time supplier back ordering is beyond the control of the Contractor. However, chronic problems with backorders can be reason for Contract termination.

f. **Billing & Payment** The Contractor shall bill the DTA once a month. Billing should be received by the DTA Finance Department no later than the 5th business day of the month following the delivery of goods or services. Payment will be made no later than the last business day of the month following the delivery of goods or services.

For each order submitted for payment the Contractor shall include:

- The name of the item - cost of each item – extended price for multiple items – invoice total
- Upon receipt of the monthly billing DTA staff will audit and issue approval for payment.
- Payment may be withheld on orders that are not satisfactory or have been returned.

g. **Delivery:** Deliveries must be made free of charge to the DTA operations facility: 2402 West Michigan Street, Duluth, MN 55806.

h. **Measurements, Alterations, Other Associated Charges:** All measuring, fitting, order filling services, shipping, postage, sewing on of patches, and other costs associated in filling the orders must be included purchase price of each item. Major alterations (those not included in the uniform price) will be priced on an as needed and agreed on pricing approved by the DTA Project Manager. Payment for alterations not included in uniform pricing will be the responsibility of the employee ordering the alterations. Collection of payment is the responsibility of the Contractor.

Alterations must include the following:

Shirts		Sew DTA patch on right sleeve
Sweater	Long	Sew DTA patch on right sleeve
Sleeve		
Sweater	Vest	Embroider DTA logo on left side
Jacket		Sew DTA patch on right sleeve

j. **Sample Set** Upon Award of the Contract, one sample in each size of the available uniforms shall be delivered to the DTA for use in sizing employees and determining preferences for sweaters,

etc. Cost of this sample set shall be noted separately on the cost sheet and shall be invoiced separately upon delivery and acceptance by the DTA.

k. **Substitutions, Etc.**: Substitution of uniform items without the approval of the DTA will not be accepted. Deviations will constitute a breach of contract and can result in cancellation of the Contract with thirty (30) days notice. If an item becomes unavailable, the Contractor shall submit a proposed replacement along with the unit cost of each item to be replaced. DTA has the right to accept or reject all proposed replacements.

l. **Specifications**: Specifications for each item Proposed must be included with the Proposal. The DTA has made substantial investments in the uniforms worn by its employees. The products, when requested by brand name or style have been tested through extensive service use and currently meet all DTA requirements for uniformity, comfort, and durability. Any proposed equals must meet these standards.

m. **Delivery Updates**: Contractor shall minimize delays in deliveries, and shall, at the time of order, identify items that may be delayed beyond the twenty-one day delivery window. Contractor shall provide weekly email updates to the DTA Project Manager on the status of the back orders.

Special orders and/or backorders must be delivered as soon as possible, but in no circumstances later than eight (8) weeks from the date of order.

n. **Shipment and Delivery Confirmation Operation** The DTA requires that garment delivery, regardless of method, provide solid, indisputable proof that the ordered garments were received by DTA. The Contractor shall ship all garments, complete with customizations, if any, within twenty-one (21) days after the date the Contractor receives the order. The date on which an order is received by the Contractor shall be considered the order date. The Contractor shall ensure that any method of transportation used to deliver the garment provides at a minimum a shipment tracking number and proof of delivery.

The Contractor, as part of its Proposal, shall submit a detailed description of their ability to track order dates, delivery dates, and billing amounts.

o. **Return Policy** In the event an employee elects to return an unused, unaltered garment(s) for any valid reason, the Contractor shall replace the returned garment(s) at no additional cost to the DTA, and at no cost to the employee. If the employee does not request a replacement, a refund will be issued directly to the DTA for the full unit purchase price for such returned garment. All refunds will be issued within seven business days of receipt of the returned items.

The DTA will not accept any garment that has been previously returned to the Contractor for quality reasons.

p. **Quantities**: No guarantee is made or implied of the minimum or maximum quantities of uniforms that may be purchased during the contract period.

q. **Unit Price**. The unit prices quoted in the proposal package shall remain firm during the entire contract period. The cost of embroidering logos and the sewing of patches must be included in the unit price quoted.

r. **Warranty:** All garments, garment alterations, workmanship, and materials shall be unconditionally warranted against failures or defects, whether such failures or defects are caused by the Contractor, the garment manufacturer, or any other third party for a period of thirty (30) days from the date of acceptance by the DTA or the DTA employee receiving the garment. The Contractor shall accept the DTA's records with respect to the date of any acceptance.

In the event that any garments delivered under this Contract are found to be defective during the Contract period, the Contractor shall, at no additional cost to the DTA, repair or replace the garments.

The warranty will not apply to the extent that the garment failure is caused by user or DTA abuse, including garment(s) damaged by fire, water, cuts or tears caused by external objects while in the possession of the DTA or the employee, or stains caused by external substances after delivery and acceptance or failure to appropriately care for and rotate garments by employee. The warranties under this Contract shall not in any way or manner decrease, modify, affect, relieve or excuse the Contractor, Subcontractor or Suppliers from their responsibility or liability under applicable law or any other provision of this Contract for breach of which they would be responsible and liable to the DTA or any other person or persons.

SECTION 7: EVALUATION CRITERIA

The DTA will make the award to the responsible Contractor whose Proposal is most advantageous to the DTA. The Evaluation Committee may not necessarily make a recommendation to award to the Contractor with the highest technical ranking nor make a recommendation to award to the Contractor with the lowest price proposal, if doing so would not be in the best interest of the DTA.

Evaluation Criteria:

A.	Cost	40%
B.	Ability to supply needed products and services	20%
C.	Quality of products and Services offered	20%
D.	Expertise, qualifications, and reliability of the firm	15%
E.	Other Relevant matters	5%

A. Cost

Except when it is determined not to be in the DTA's best interests, the DTA will evaluate offers by adding the total price for option years four and five to the total price for the basic requirements. Evaluation of options will not obligate the DTA to exercise the option. Big and tall or plus size pricing shall not be considered for the cost evaluation.

B. Ability to supply products and services

The technical qualifications and experience of the Contractor will be determined by the following factors:

- The overall experience of the Contractor in providing over the counter uniforms in a timely manner.
- The Contractor's ability to track orders and deliveries, and communicate the status of the order
- Acceptable accounting practices
- The quality of the manufacturers the Contractor has relationships with, as well as the length of time the Contractor has experience with manufacturers.

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- The Contractor's ability to provide special tailoring capabilities to meet the needs of the DTA.
- Contractor must be able to provide all uniform items
- Ability to maintain sufficient inventory to meet the DTA's needs, including sufficient storage facilities if necessary.
- Contractor must have the ability to measure employees to ensure proper sizing.
- Contractor will be evaluated in part on the past work experience comparable to the work detailed in this RFP. References for previous work conducted similar to this project will also be accepted and reviewed.

C. Quality of Products and Services

Besides the quality of the garment offered, the quality and timeliness of delivery of garments, the quality and timeliness for completion of alterations and repairs, as well as customizations, will be of primary importance. Contractor will provide references on subcontractors performing alterations, and methods for managing the work to ensure timely and orderly completion.

D. Expertise, qualifications, and reliability of the firm

The expertise and professional level of the individuals proposed to conduct the work for the DTA, as well as the systems and technology used to perform the work will be evaluated. Contractor must have the ability to sew patches on clothing items and provide embroidery for various logos.

E. Other Relevant matters

Other relevant matters may include prior transit experience, and the apparent general understanding of the work to be performed.

F. As Proposals are considered by the DTA to be more equal in their technical merit, the evaluated cost or price becomes more important so that when technical Proposals are evaluated as essentially equal, cost or price may be the deciding factor.

G. At the DTA's option, may elect to interview Proposers or seek further information before awarding the contract.

H. As part of the Proposal evaluation, the DTA may request samples of garments and/or alterations to assist in evaluating a Proposer's qualifications. There shall be no cost born to the DTA for providing the samples. Sample garments must be of the same brand and quality as Proposed. Samples will be returned to the Proposer upon completion of the evaluation. Failure to provide requested samples in a timely manner may render the Proposer non-responsive.