

GENERAL INSTRUCTIONS TO OFFERORS



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OAHU TRANSIT SERVICES, INC.

CHAPTER 1.0: GENERAL

1.1 Introduction.

These General Instructions to Offerors (“Instructions”) state Oahu Transit Services, Inc. (OTS)’ policies relating to Request for Competitive Sealed Bids (RFB), Request for Competitive Sealed Proposals (RFP), and Request for Quotation (RFQ) solicitations.

Before submitting an offer, the Offeror shall be responsible for reading and examining the solicitation documents, these Instructions and all applicable requirements. Submission of an offer shall be deemed verification of such reading and examination. No Offeror shall in any way be relieved of any obligation with respect to its offer or the contract due to its failure or neglect to, familiarize itself with, and understand the work requirements, the Solicitation Documents, or existing conditions. No claim for additional compensation to the Offeror shall be allowed based on lack of knowledge or misunderstanding.

1.2 Application.

Should the solicitation’s provisions conflict with these General Instructions, the solicitation’s provisions shall govern. Unless otherwise specified, these instructions are not intended to be incorporated into awarded contracts.

1.3 Definitions.

The terms used in this General Instructions to Offerors shall have the same meanings as defined in OTS’ General Terms and Conditions.

CHAPTER 2.0: SOLICITATION

2.1 Order of precedence.

Whenever separate Scope of Work, provided Offer pages, Special Provisions, Exhibits, requirements, specifications or plans are referred to or attached hereto, they shall be considered a part of this solicitation document as if contained herein. Should any of the scope of work, provided offer pages, special provisions, requirements, specifications or

plans conflict with these Instructions to Offerors, they shall govern. The most recent addenda shall govern over all other previously issued addenda and other solicitation documents.

2.2 Attachments.

In the eProcurement system, all attachments are incorporated and by reference made a part of the solicitation.

2.3 OTS' estimates.

Any estimate provided by the OTS is for the convenience of the Offeror only and the OTS does not represent or warrant its accuracy. An Offeror should conduct its own review and analysis.

2.4 Pre-bid or pre-proposal conference.

Pre-bid or pre-proposal conference (pre-offer conference), if held, shall be announced in the solicitation document, or in an addendum. Unless specified otherwise in the solicitation, pre-offer conferences shall be non-mandatory. Nothing stated at the pre-offer conference shall change the solicitation unless a change is made by written addendum.

2.5 Examination of site.

When applicable, the Offeror shall examine carefully the site of the proposed work before submitting an offer. The submission of an offer shall be considered as a warranty that the Offeror has made such examination and is satisfied with the conditions to be encountered in performing the work.

(a) Surface and subsurface conditions.

Where subsurface conditions are known to OTS in respect to foundation or other design, the Offeror may inspect the records of OTS and examine any sample that may be available. Where such information is shown in the plans, said information represents only the statement by OTS as to the character of material which has been actually encountered by OTS and is included only for the convenience of the Offeror. OTS makes no representations as to the conditions which will actually be encountered by the Offeror.

Any subsurface information or hydrographic survey data furnished are for the Offeror's convenience only. The information and data furnished are the product of the Officer-in-Charge's interpretation of the facts gathered in investigations made at the specific locations indicated to aid in the design of the project, and OTS assumes no responsibility whatsoever in respect to the sufficiency or accuracy of borings or of the log of test borings or other preliminary investigations, or of the interpretation thereof, and there is no guaranty, either expressed or implied, that the conditions indicated are representative of those existing throughout the work. In addition, no assurance is given that conditions found at the time of the subsurface explorations, will be the conditions that prevail at the time of construction. The Offeror shall be solely responsible for all

assumptions, deductions, or conclusions the Offeror may make or derive from the subsurface information or data furnished.

Making information concerning subsurface conditions available to Offerors is not to be construed in any way as a waiver of the Offeror's responsibility to examine the solicitation document and site. The Offeror must satisfy itself through its own investigations as to conditions to be encountered.

(b) Utilities, underground.

All underground water, gas, oil, telephone, electric, storm drain, sewer, and other pipes or conduits, shown on the plans, are only approximate in their locations. The Offeror shall make a personal investigation and inspection of the records and drawings possessed by owners of the utilities. The Offeror shall make satisfactory arrangements with the owners of the utilities for the relocation, maintenance and protection of existing utilities.

(c) Materials and equipment.

OTS does not assume any responsibility for the availability of any materials or equipment required under this contract. Unless otherwise specified in the solicitation, the Offeror shall be considered as having taken into account when submitting an offer, the availability of materials or equipment required under the contract, except as provided for herein.

2.6 Price Items.

- (a) Unless otherwise specified in the solicitation, prices offered shall be based on f.o.b. place of destination and shall include all applicable taxes, freight, delivery, handling and related charges.
- (b) Unless otherwise specified in the solicitation document, Offerors must provide a price for all items listed in the solicitation document.
- (c) When alternates are provided for in the solicitation, Offerors should enter a price for each and every item listed setting forth the amount to be added to or deducted from the Offeror's total basic price should such alternate be incorporated into the contract. Failure to enter a price for each and every item may result in the Offeror's offer not being considered for award, provided that if award is based on the item or items on which offers have been submitted, the Offeror's offer may be considered for award.
- (d) In case of discrepancy between prices written in words and those written in figures, the price written in words shall govern. Regarding pricing submitted in the eProcurement system, the price submitted in the system shall govern. Notwithstanding the above, a unit price shall govern over an extended price.
- (e) Offers in which prices are unbalanced, which contain omissions, erasures, alterations, or additions not called for, or irregularities of any kind shall be cause for rejection of an offer.

- (f) Any illegible or otherwise unrecognizable price shall be cause for rejection of an offer.

2.7 Applicable Taxes.

Unless otherwise specified in the solicitation, the Offeror shall include in its unit price and be responsible for paying all taxes, which shall be applicable to the goods, services, or construction or the furnishing and sale thereof. Offerors are directed to contact the Department of Taxation of the State of Hawaii for assistance regarding the applicability of taxes.

2.8 Wages, Hours and Working Conditions.

- (a) Construction projects

Offerors are advised of the applicability of HRS §104, "Wages and Hours of Employees on Public Works," and OTS' applicable General Terms & Conditions, unless otherwise stated in the solicitation Offerors shall incorporate compliance with all the provisions of HRS §104 and OTS' applicable General Terms and Conditions into their offer.

- (b) eProcurement System

By submitting an electronic bid, you are hereby accepting and acknowledging your compliance with the requirements herein and are not required to submit the certification form.

2.9 Insurance and indemnification.

Offeror shall include in its price all costs to provide insurance and comply with the indemnification provisions as specified in the solicitation.

2.10 Performance and payment bonds.

Offeror shall include in its price, all costs to meet the bond requirements of a project.

- (a) Goods or Services projects

Contract performance and payment bonds shall only be required for Goods or Services projects when specified in the solicitation.

- (b) Construction projects

Contract performance and payment bonds shall be required for all Construction projects greater than \$50,000.00 and shall be one hundred percent of the contract amount.

2.11 Bid security.

When required, Offerors shall provide, at no cost to OTS, an offer security. If an offer security is required and an Offeror fails to accompany its offer with an offer security, the offer shall be deemed non-responsive. For solicitations posted on the eProcurement system, bid security, when required, shall be attached to the offerors electronic bid. The original bid bond shall be provided to the project buyer within five working days from the notification of intent to award. If the offeror fails to comply with this requirement, the offer may be rejected as non-responsive.

- (a) Goods or Services. A bid security shall only be required when specified in the solicitation.
- (b) Construction. Bid security shall be required for all Construction projects that are \geq \$250,000.00.
- (c) Bid Security Amount. Bid security amount shall be equal to at least five percent of the Offeror's total bid amount.
- (d) An acceptable bid security shall be limited to:
 - (1) Surety bond in the form attached to the solicitation and underwritten by a company licensed to issue bonds in Hawaii.
 - (2) Legal tender; or
 - (3) A certificate of deposit; credit union share certificate; or cashier's, treasurer's, teller's, or official check drawn by, or a certified check accepted by a bank, a savings institution, or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, and payable at sight or unconditionally assigned to Oahu Transit Services, Inc.
 - i) These instruments may be utilized only to a maximum of \$250,000.00. If the required security amount totals over \$250,000.00, more than one instrument not exceeding \$250,000.00 each and issued by different financial institutions shall be accepted.

2.12 Brand names, model, make or method.

Excluding construction projects, where the solicitation document specifies one or more manufacturer's brand names or makes of materials, devices, equipment or system; it is indicating a quality, style, appearance, or performance. The Offeror shall base its offer on one of the specified brands, makes, or method. However, other manufacturer's brands, makes, etc. may also qualify if found to be equal to or better than those specified. A bid based on an unspecified brand, make, etc. will be subject to evaluation as to its comparable quality, including quality or adequacy of support.

The burden of proof as to the comparable quality of alternate brands, makes, etc. shall be upon the offeror. Offerors shall, at their own expense, furnish within ten calendar days unless otherwise specified, all necessary information and/or sample of the items (s) being considered. OTS reserves the right to determine whether the alternate brand, make, etc. are equivalent to and meet the indicated standards of quality, and its decisions shall be final.

Please see Section 2.16 regarding approval for product, equipment, systems, etc. for construction projects.

2.13 Supplemental requirements for Construction projects.

(a) Estimated quantities

Unless otherwise specified, all quantities appearing in solicitation document for construction projects are approximate, and are prepared for the comparison of offers only. OTS does not, expressly or by implication, warrant that the actual quantities will correspond therewith. Offeror shall include in its prices offered, the entire cost of the performance of the contract, and it is understood and agreed that there is included in each lump sum or unit priced item, the entire cost of any and all items incidental to the performance of the work covered by such lump sum or unit priced item. When an Offeror is in doubt as to the proper item to which the anticipated cost of any item is to be allocated, the Offeror shall request clarification, or shall include such cost in the lump sum or unit price offer for the item deemed most appropriate.

- (1) Unit priced items: For unit priced items, payment to the Contractor will be made only for the actual quantities of work performed and accepted or of materials furnished and accepted in accordance with the solicitation document and subject to the General Terms and Conditions.
- (2) Lump sum items: The quantities in any item for a lump sum offer item are approximate only and payment will be made only for the item in place complete, regardless of the amount of material, equipment, and labor necessary to complete the same in a proper and professional manner and in accordance with the contract documents. The Offeror shall verify these quantities in any manner deemed necessary or expedient.

(b) Joint contractor; subcontractor listing

For RFB solicitations, offeror shall list all joint contractors or subcontractors.

Specialty work. Joint contractors and subcontractors may perform only the specialty work for which they are listed. When additive/deductive alternates are made a part of the offer, Offeror shall indicate, if applicable, the additive/deductive alternate and the basic work to be performed by each joint contractor or subcontractor.

A listing that is incomplete, ambiguous, or erroneous may be cause for rejection of an offer. Offers which are not in compliance may be accepted if OTS concludes that acceptance is in the best interest of the public and the value of the work to be performed by the joint contractor or subcontractor is equal to or less than one percent of the total bid amount.

A subcontractor listing is not required for RFQ solicitations.

(c) Allowances

Any allowance amount specified in the solicitation shall be considered an estimate of the amount required and shall be included in the Offeror's total sum offer.

(d) Mobilization

Offerors shall refer to the applicable sections of the General Terms and Conditions regarding mobilization for more information.

(e) Employment of state residents on Construction projects.

Awarded Contractor shall ensure that Hawaii Residents compose not less than eighty percent (80%) of the workforce employed to perform the contract. This requirement shall apply to subcontracts of \$50,000.00 or more. This requirement shall not apply to RFQ and federally funded solicitations.

(f) Safety and health certification

All bids and proposals in excess of \$100,000 for construction projects shall include a signed certification from the offeror that a written safety and health plan for the job will be available and implemented by the notice to proceed date of the project. Submittal of an electronic bid in excess of \$100,000 shall be deemed to be this signed certification.

2.14 General Terms & Conditions.

OTS' General Terms and Conditions shall be either incorporated by reference or by attachment to the solicitation. Offers submitted with any alterations without approval by OTS may be sufficient cause for rejection of the offer.

2.15 Request for clarification.

If a prospective Offeror believes that any of the matters in, or related to, the solicitation are not sufficiently described or explained, or that any discrepancy exists between different parts of the solicitation, or that the full intent of the solicitation is not clear, then the Offeror shall submit a written request for clarification no later than the deadline stated in the solicitation document. OTS is not obligated to respond to any request(s) received after the deadline.

2.16 Request for substitution (Construction).

Alternate brands, makes, or methods may be qualified through the submittal of a written request for substitution for review and approval. An alternate brand, make, or method approved for one procurement or project is not to be considered as approved for any other procurement or project. Offeror shall submit a written request for substitution no later than the deadline stated in the solicitation document. Requests received after the deadline will be denied.

The written request must be clearly marked SUBSTITUTION REQUEST on the envelope. Three (3) copies of the request must be submitted together with three (3) sets of technical brochures which shall either be marked or be accompanied by three copies of a statement of variances. The statement of variances must list all features of the proposed substitution which differ from the solicitation, and must further certify that the substitute has no other variant features. The brochures must include sufficient evidence to enable OTS to evaluate each feature listed as a variance. Should an unlisted

variance be discovered after installation or delivery of the item, the Contractor shall immediately replace the item with the specified item at no cost to OTS and without any extension to the contract completion time.

The written substitution request shall be submitted in the following format:

SECTION ITEM SPECIFIED SUBSTITUTE VARIANCE

If sufficient evidence to make a determination of acceptability of the proposed substitute does not accompany a request for substitution, the request shall be denied unless OTS allows further evidence to be submitted to qualify the same model and provided that such evidence is submitted prior to the specified deadline.

Substitution requests not complying with the above requirements may be denied.

Any Offeror whose offer is based on a substitute item which has been approved by OTS shall include in its price offer, the additional cost required for all modifications and the cost of all additional diagrams and drawings required to accommodate the substitute item. The modifications may include the changes in design that may be required.

Written request for substitution shall be submitted by person, or mailed hardcopy to the address specified in the solicitation.

2.17 Solicitation addenda.

Should an addendum modify the description and/or quantities of a price item, it shall be the responsibility of the offeror to modify or withdraw its submitted offer.

(a) Written addendum

Oral interpretations or clarifications or changes or approved substitutions will be without legal effect. Only interpretations or clarifications or changes or approved substitutions provided by formal written addendum to the solicitation shall be binding.

(b) Notification of addenda

- (1) Notifications of addenda will be issued to all prospective Offerors known to have downloaded a solicitation document from OTS.
- (2) For RFPs, if the addendum is issued after the receipt of proposals, notifications will be sent to those Offerors who submitted proposals or who are "priority listed."

2.18 Cancellation of solicitation.

A solicitation may be canceled in whole or in part and at any time.

CHAPTER 3.0: PREFERENCES

This chapter may not apply to Federally funded procurements.

3.1 Applicability of preferences.

Preferences shall apply to a solicitation when:

- (a) An offer form or certificate for the preference is included in the solicitation document; and
- (b) The solicitation indicates the applicability of the preference in the solicitation's offer pages, special instructions or special provisions.

3.2 Evaluation of preferences.

Preferences shall be for evaluation purposes only. The award contract amount shall be the amount of the offer, exclusive of any preference.

CHAPTER 4.0: OFFER

4.1 Preparation of offers.

(a) All offers shall comply with the following:

- (1) All costs to prepare and submit an offer shall be at the Offeror's expense. OTS will not reimburse any offer costs incurred by any Offeror, any prospective Offeror, or any other person.
- (2) An offer shall be submitted by an individual, member, officer, or agent of the Offeror legally qualified and authorized to do so.
- (3) Time is of the essence and the time for delivery is a part of the response and must be adhered to. Time, stated in the number of days, shall mean "calendar" days, and shall include weekends and holidays.

(b) The Offeror's submission of an electronic offer, using an eProcurement system, confirms that the Offeror:

- (1) Intends to be bound by the offer.
- (2) Agrees to all terms, conditions, and provisions of the solicitation.
- (3) In accepting the electronic terms, the offer is deemed equal to a signed certification.

(c) Offers for all other solicitations shall comply with the following:

- (1) Shall be prepared using the solicitation documents provided by OTS.
- (2) Shall be prepared in ink or typewritten. Errors may be erased or crossed out, and corrections typewritten or printed in ink but must be initialed in ink by the person or persons signing the offer.
- (3) Shall be signed in ink by the individual if offering as a sole proprietor, by one or more members of a partnership, by one or more members or officers of each entity in a joint venture, by one or more officers of a corporation, or by an agent of the Offeror legally qualified and acceptable to OTS.

- (d) Space is provided in solicitations for: brand name, model number and/or packaging. Offerors who leave these fields blank (physically and electronically) certify, by submitting their offer that they are providing as specified. This paragraph shall not apply to service solicitations.

4.2 Certificate of Acceptance of Solicitation Requirements.

The Certificate of Acceptance of Solicitation Requirements when made a part of the solicitation shall be completed, signed by the Offeror, and submitted with the Offeror's offer. Failure to submit the required certification may be grounds for disqualification of the Offeror's offer.

The Offeror shall sign the Certificate of Acceptance of Solicitation Requirements to acknowledge that the Goods, Services, or Construction provided by the

Offeror are in compliance with the Scope of Work specified in the solicitation. Deviations from the specified Scope of Work shall only be allowed by the approval of OTS unless otherwise specified in the solicitation.

By submitting a bid in an eProcurement system, you are hereby accepting and acknowledging your acceptance of solicitation requirements and are not required to submit the certification form.

4.3 Certificate of cost or pricing data.

When an offer in response to a Request for Competitive Sealed Proposal (RFP) solicitation is in excess of \$100,000.00, the Offeror shall certify that the offer's cost or pricing data is accurate, complete, and current. Failure to submit the required certification may be grounds for rejection of the offer.

4.4 Offer Submission.

- (a) Offers for solicitations that were posted in the eProcurement system: The offeror shall submit its offer electronically.
- (b) Offers for all other solicitations: If the solicitation specifically allows hard copy offers, the offer should be sealed in an envelope. The solicitation number, Offeror's name and address, and closing date of the solicitation should be printed on the outside of the envelope. The offer envelope must be time stamped and deposited at OTS.

4.5 Modification or withdrawal of offers.

An offer may be modified or withdrawn prior to the solicitation's close date and time. OTS shall not accept offers and modifications after the solicitation close time and date.

4.6 Public bid opening of solicitations.

- (a) Opening for RFB and RFQ solicitations that were posted in the eProcurement system: After the solicitation's close date and time has passed, a bid tabulation will be available and publicly provided.

(b) Opening for all other RFB solicitations: The opening of offers shall be by a representative of OTS, at the date and time stated in the solicitation, in the presence of all who attend. Opened offers shall be available for public inspection at the time of offer opening.

(c) Opening for RFP solicitations: Proposal shall not be publicly opened. Proposals shall be open to public inspection after the notice of award has been posted.

4.7 Time for acceptance of offer.

Unless otherwise stated in the solicitation, an offer may be withdrawn only if OTS fails to award the contract within sixty (60) days of the deadline for offers.

CHAPTER 5.0: EVALUATION OF OFFERS

5.1 Waiver of informalities.

OTS may waive or accept minor informalities, mistakes or other bid defects.

5.2 Multiple or alternate offers.

Unless specifically provided for in the solicitation, multiple or alternate offers shall not be accepted and all such offers shall be rejected.

An offeror shall be considered to have submitted more than one offer if such offeror submits more than one offer under the same Taxpayer Identification Number (FEIN or SSN), same name, or through agents, or through joint ventures, partnerships or corporations in which such person has more than a twenty five percent interest in each of them, or through any combination thereof.

5.3 Conditioned offers.

Offers that are conditioned may be deemed nonresponsive and rejected.

5.4 Limiting acceptance to entire offer.

An Offeror may not limit acceptance to the entire offer, unless allowed by the solicitation:

- (a) If the acceptance of an offer is so limited by the Offeror but not allowed, the offer will be determined to be not acceptable and rejected.
- (b) If the acceptance of an offer is so limited by the Offeror and allowed, the purchasing agency shall not reject part of the offer and award on the remainder.

5.5 Anti-competitive practices.

If there is any evidence indicating that two or more Offerors are in collusion to restrict competition or have otherwise engaged in anti-competitive practices relating to the procurement, the offers of all such Offerors shall be rejected and such evidence may be a cause for their suspension or debarment.

5.6 Suspended or debarred List.

No contract will be awarded to any Offeror suspended or debarred by the Federal, State or City governments.

5.7 Unauthorized communications

Except as otherwise authorized in the solicitation, offerors shall not make any contact or communications with the Contracting Officer, any member of a Selection Committee or Evaluation Team, or any other OTS officer, employee or agent directly serving the procurement activity.

5.8 Rejection of Offers.

OTS reserves the right to reject any or all offers when in OTS' opinion; such rejection will be in the best interest of OTS. Offers may be rejected for the following reasons:

- (a) Offeror lacks sufficient experience to perform the work contemplated;
- (b) Offeror does not possess proper license, if required to cover the type of work contemplated, at the time of the offer submittal due date, unless otherwise specified in this solicitation;
- (c) Offeror who has uncompleted work on contracts in force, or a record of unsatisfactory work performance or delays on completed contracts or on contracts in force which, in the judgment of OTS, might hinder or prevent the prompt completion of additional work if awarded;
- (d) Offeror who has complaints filed for abusive or threatening language or behavior during previous contracts;
- (e) Offeror who has had a previous contract terminated for default by OTS;
- (f) Offeror is determined to be non-responsible;
- (g) Offeror fails to pay, or satisfactorily settle, all bills overdue for labor and material on former contracts prior to the offer submittal due date;
- (h) The Offeror was paid for services to develop or prepare the specifications or work statements.
- (i) The offer does not conform in all material respects the requirements of the solicitation.
- (j) The proposed price is clearly unreasonable.

5.9 Cost Analysis Data.

OTS reserves the right to request cost data. Cost data will be used to determine if an offer price is fair and reasonable.

CHAPTER 6.0: DISCUSSION & BEST AND FINAL OFFER

This chapter shall apply only to Request for Competitive Sealed Proposals (RFP) solicitations.

6.1 Priority Listed Offers.

OTS may establish a Priority List consisting of at least three (3) Offerors. Those Offerors who are selected for the priority list are referred to as the “Priority-Listed Offerors (PLO).”

When soliciting using a Design Build RFP, the three responsible, most qualified offerors shall be short-listed as PLO.

If OTS issues addenda after the PLO firms are determined, OTS will issue the addenda only to the PLO firms.

6.2 Discussions.

Discussions will be limited to only Priority-Listed Offerors (PLO). PLOs shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of offers; however, offers may be selected without such discussion.

New proposals or amendments to the existing solicitation that, in the OTS’s sole judgment, significantly change the nature of the procurement will not be permitted. Should OTS believe it is in its best interest to go forward with a significant change, then the solicitation may be cancelled and a new solicitation may be issued.

6.3 Best and Final Offer (BAFO).

OTS reserves the right to issue a request for Best and Final Offers (BAFOs). OTS may make its selection and Award based on the initial offers submitted.

If BAFOs are requested, OTS shall inform the PLO firms and allow/request revised offers, including correction of any weaknesses, minor irregularities, errors, and/or deficiencies identified. Adequate time shall be provided to PLO firms to revise their offers.

CHAPTER 7.0: AWARD

7.1 RFB and RFQ solicitations.

(a) Additive or deductive alternates

In the event additive or deductive alternates are included in the solicitation, the lowest offer price will be determined after adding to or deducting from the total basic price, the alternate or alternates considered for award. Alternates, if any are awarded, shall be awarded in the order listed in the offer. Award of alternates shall be dependent upon the availability of funds.

(b) Low Tie Bids

In the case low tie bids from responsible and responsive Offerors are received, award may be made by the drawing of lots.

7.2 Exceeding available funds.

In the event all offers exceed available funds and where time or economic considerations preclude re-solicitation of a reduced scope of work, OTS may negotiate an adjustment of the offer price, including changes in the solicitation requirements, with the lowest priced responsive and responsible Offeror, to bring the offer within the amount of available funds.

7.3 Verification of Responsibility of Offeror.

Prior to the award of the contract, the successful Offeror shall be registered as "compliant" on the State of Hawaii Compliance Express System (<http://vendors.ehawaii.gov>) or submit the required tax clearances from the State Department of Taxation and Internal Revenue Service, the Certificate of Compliance with the State Department of Labor and Industrial Relations, and the Certificate of Good Standing with the Department of Commerce and Consumer Affairs Business Registration Division. OTS may reject the offer if the Offeror fails to provide proof of compliance within the time permitted by OTS.

7.4 Execution of contract.

Upon notification of award, the successful Offeror shall obtain the contract from OTS for execution. The contract document shall be returned within ten days from the date of notification of the award, or within such time as OTS may allow.

Failure to enter into the contract and to furnish satisfactory security, when required, may be cause for cancellation of the Offeror's award and forfeiture of the Offeror's offer security, if any, as liquidated damages and not as a penalty.

The contract documents are to be completed and executed by the Offeror in the following manner:

(a) Authorization

OTS may require, in the case of a corporation, a corporate resolution authorizing the person(s) signing to execute the contract and bond. OTS may require, in the case of a joint venture or partnership, a power of attorney authorizing the person(s) signing to execute the contract and bond. The surety, if applicable, may also be required to attach its corporate resolution or power of attorney authorizing the person(s) signing to execute the bond.

(b) Performance and payment bonds

Performance and payment bonds, if required, shall be delivered at the same time the contract is executed.

(c) Evidence of insurance coverages

If insurance coverages are required by the solicitation, evidence of insurance coverages shall be delivered at the same time the contract is executed.

7.5 Awards of less than \$100,000 and \$250,000.

On any individual award totaling less than \$100,000 for Goods or Services and less than \$250,000 for construction, OTS reserves the right to award the contract by Purchase Order. The purchase order shall be performed in accordance with the terms set forth in the solicitation.

7.6 Cancellation of award.

OTS reserves the right to cancel the award of any contract any time before OTS signs the contract.

CHAPTER 8.0: PROTEST, SUSPENSION AND DEBARMENT

8.1 Authority to resolve protested solicitations and awards.

All disputes or disagreements arising out of or relating to this solicitation, including, but not limited to, any protested solicitations or awards, shall be resolved in accordance with the procurement policies of OTS as set forth in the OTS Procurement Manual. In consideration of OTS' review and evaluation of a bid or proposal by a bidder, the bidder agrees to resolve any such disputes or disagreements pursuant to the procurement policies of OTS, which shall include, but not be limited to, binding arbitration as a means of resolving any bidder protest, and the bidder waives all rights to injunctive relief and other equitable remedies.

For Federally funded procurement contracts only, the bidder has the option to appeal to the Federal Transit Administration (FTA) after all administrative remedies with OTS have been exhausted. An appeal must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the bidder learned or should have learned of an adverse decision by OTS.

8.2 Authority to debar or suspend.

OTS may debar or suspend an Offeror for cause from consideration for award of contracts.