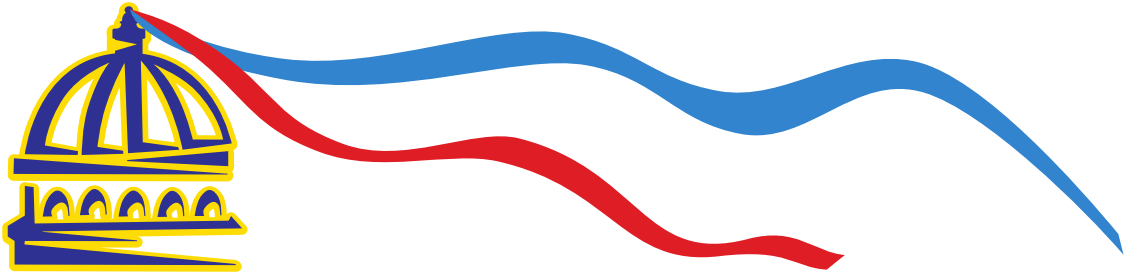


# TOPEKA METRO



**Topeka Metropolitan Transit Authority**  
**201 North Kansas Avenue**  
**Topeka, KS 66603**  
**(785) 730-8620**

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## **REQUEST FOR PROPOSALS**

### **Paratransit Buses**

**May 4, 2020**

# REQUEST FOR PROPOSALS

## PARATRANSIT BUSES

### RFP TM-20-01

May 4, 2020

Notify Richard Appelhanz via email of your interest in this solicitation.  
[rappelhanz@topekametro.org](mailto:rappelhanz@topekametro.org)

All communication will be sent to known solicitation holders via email.

Metro will be unable to send you information, addenda, and other updates  
if you do not notify us of your interest in this project.  
Metro will not be responsible for communicating with firms  
that do not notify us of their interest in this solicitation.

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<http://www.topekametro.org>

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**PROPOSAL SCHEDULE**

**PARATRANSIT BUSES  
RFP TM-20-01  
Topeka Metropolitan Transit Authority**

**Monday, May 4, 2020**

**Public Notice and Request for Proposals**

**Monday, June 15, 2020**

**Last Day for Change Requests and Questions**

**Friday, July 10, 2020**

**Last Day for Metro Responses**

**Thursday, July 30, 2020**

**Proposals are Due No Later than 3:00pm Central Time**

## **PUBLIC NOTICE AND REQUEST FOR PROPOSALS**

Topeka Metropolitan Transit Authority (Metro) will receive proposals from qualified manufacturers or distributors to provide paratransit cutaway buses. Proposals must be received in the Metro office at 201 North Kansas Avenue, Topeka, KS 66603, marked "CUTAWAY BUSES / RFP TM-20-01" no later than 3:00 PM Central Time on Thursday, July 30, 2020. The proposal schedule will allow for eighty-eight (88) calendar days for proposal submission.

The RFP document package may be obtained from the office of Metro, 201 North Kansas Avenue, Topeka, KS 66603, on or after Monday, May 4, 2020 by contacting Richard Appelhanz. Interested firms may download the RFP document package from the Metro website ([www.topekametro.org](http://www.topekametro.org)) or call (785) 730-8621 to arrange for pickup or mailing.

The proposers will be required to comply with all applicable state and federal Equal Employment Opportunity (EEO) laws and regulations. Metro, in accordance with Title VI of the Civil Rights Act of 1964 and related regulations, hereby notifies all proposers that minority business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, creed, color, religion, gender, marital status, sexual orientation, familial status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or military status in consideration for an award.

Any agreement resulting from this RFP is subject to financial assistance agreements between Metro and the Kansas Department of Transportation.

In order to be eligible to submit a proposal, the proposer must not be included on the United States Comptroller General's Consolidated List of Persons or Firms currently debarred or suspended from participating in public contracts.

Metro reserves the right to accept any proposal or any part or parts thereof. Metro reserves the right to reject any or all proposals and to waive irregularities therein, and all proposers must agree that such rejection shall be without liability on the part of Metro for any penalty brought by a proposer because of such rejections, nor shall the proposer seek any recourse of any kind against Metro because of such rejections, and the filing of any proposal in response to this solicitation shall constitute an agreement of the proposer to these conditions.

Topeka Metropolitan Transit Authority  
201 North Kansas Avenue  
Topeka, KS 66603

## **PART I – PROJECT DESCRIPTION**

This document is a guide to properly preparing your proposal. All proposals must be completed in strict compliance with the requirements of this document. This RFP will become part of the final contract between Metro and the Contractor.

### 1.0 SCOPE

Topeka Metropolitan Transit Authority (Metro) is soliciting proposals from qualified manufacturers or distributors to provide paratransit buses. This will be a competitive procurement, and will be awarded in accordance with the terms and conditions set forth in this document. Proposers are advised to read all sections thoroughly before submitting a proposal. Any agreement resulting from this RFP is subject to financial assistance agreements between Metro and the Kansas Department of Transportation (KDOT).

### 2.0 SPECIFICATIONS

The Board of Directors of Topeka Metropolitan Transit Authority (the Board) invites qualified manufacturers or distributors to submit a proposal to provide paratransit buses. Proposers shall have sufficient experience and qualifications to manufacture and/or deliver paratransit buses. This will be a five-year contract. See Appendix A for vehicle specifications.

The specifications in Appendix A do not include all parts of the bus. Metro believes that cutaway bus manufacturers and distributors understand the federal requirements pertaining to transit buses, and that they will construct buses to comply with these requirements. Metro is listing only those specifications that may vary between transit properties and that conform with Metro's needs.

The Board is seeking a manufacturer or distributor that can provide Metro with all of its cutaway paratransit bus needs for the next five years. The successful proposer will be able to show that it is capable of manufacturing and delivering cutaway unleaded fuel buses, associated spare parts, training materials and manuals. All buses must be manufactured and assembled in accordance with ADA-accessibility requirements, FTA and KDOT requirements, and with the specifications contained in this RFP.

### 3.0 METRO OVERVIEW

Since its inception in July 1973, Metro has operated transit service as an independent public entity under the authority of Kansas statutes and Topeka ordinances. Metro has the state legislative authority to operate within the City of Topeka, Kansas and the unincorporated area within ninety miles of the City limits. The primary function of Metro is to plan, develop, finance, and operate transit buses, equipment and facilities serving the City of Topeka and surrounding area.

Metro provides fixed route bus service Monday through Saturday during daytime hours, and paratransit service during fixed route bus service hours. All service is currently provided within the City limits. Metro currently has twenty-six (26) fixed route buses and nine (9) paratransit buses in its fleet.

Metro receives the following types of funding:

- US Department of Transportation, Federal Transit Administration, operating and capital grants
- KS Department of Transportation, operating and capital grants
- City of Topeka, property tax funding for operating and capital expenses
- Metropolitan Topeka Planning Organization, City of Topeka, planning grants

This funding constitutes approximately 85% of Metro's annual revenues. The majority of the other 15% is generated through bus fares.

Metro's fiscal year is July 1 through June 30. Total annual budgeted expenses are approximately \$10 million. Metro currently has 100 employees, 65 of whom are union employees.

#### 4.0 CONTRACTOR'S GENERAL REQUIREMENTS

- 4.1 The contractor will be responsible for all materials and workmanship in the construction and assembly of the bus and all accessories used, whether the same are manufactured by the contractor or purchased from a supplier.
- 4.2 Materials furnished and work performed by the contractor will conform to the requirements of the technical specifications in this RFP and other contract documents.
- 4.3 The contractor will provide adequate documents for registering the bus in the State of Kansas upon delivery of the bus. Title to the bus will pass to Metro upon acceptance, and will be free and clear of all encumbrances.
- 4.4 The contractor guarantees to provide parts, service, and technical support in order for Metro to maintain and repair buses supplied under this contract for a minimum period of five (5) years after the date of acceptance. All parts will be interchangeable with the original equipment.
- 4.5 The contractor will comply with all applicable federal and state regulations, including ADA, EPA, accessibility, safety and security requirements.
- 4.6 During the term of the contract, the contractor will respond promptly to requests made by Metro, including all requests for additional documentation.
- 4.7 The contractor will ensure that the application and installation of bus components and systems are compliant with all vendor requirements and recommendations. Components used in the buses will be of heavy-duty design and proven in transit service.
- 4.8 The contractor is responsible for providing all parts and details required to make buses complete and ready for service, including parts and details that are not specifically mentioned in this RFP.
- 4.9 The contractor will provide all standard warranties, manuals and training.

#### 5.0 DBE REQUIREMENTS FOR TRANSIT VEHICLE MANUFACTURERS

Pursuant to 49 CFR 26.49, a proposer, as a condition of being authorized to respond to this solicitation, must certify by completing the Transit Vehicle Manufacturer's Certification that it has on file with the FTA an approved annual DBE subcontracting participation goal. Each proposer must also submit a copy of the FTA letter approving their DBE goal. See the TVM Certification in Part V. Metro will validate each proposer's TVM certification at [www.fta.dot.gov/dbe](http://www.fta.dot.gov/dbe) prior to proposal evaluation.

#### 6.0 PRE-DELIVERY AND POST-DELIVERY INSPECTIONS

Metro may hire an inspector to perform pre-delivery inspections at the contractor's plant. The inspector will witness assembly, verify Buy America content, perform testing, and authorize release of the bus. Metro's Director of Maintenance may also go to the contractor's plant to witness assembly, verify contractual content, perform testing, and authorize release.

Upon delivery of a bus, Metro will perform a post-delivery inspection. Metro will check components and sub-components, visually inspect the bus for damage, and test-drive the vehicle to ensure that all main components are operating properly. The contractor will also perform an on-site inspection of each bus upon full delivery of each order. If a bus fails any part of the inspection, Metro will notify the contractor that the bus will be accepted once repairs have been carried out and the bus passes a retest.



## 7.0 PRE-PRODUCTION MEETING

The contractor will pay travel cost for two (2) Topeka Metro representatives to attend a Pre-Production meeting at the contractor's place of business. There will be a pre-production meeting for each bus order issued. For each pre-production meeting, the contractor will provide (among other things):

- a. Engineering support at the meeting;
- b. Material samples that Metro can keep; and,
- c. Final specifications and pricing within 30 days of the meeting.

At each pre-production meeting, Metro and the contractor will agree upon (among other things) the:

- a. Undercoating system program;
- b. Security camera locations;
- c. Color and striping of the buses; and,
- d. Exact layout of passenger seating.

## 8.0 CONTRACT TERM AND QUANTITIES

This is a five-year contract. Metro does not guarantee a minimum purchase quantity but plans to purchase at least five (5) vehicles. Metro will purchase a maximum of twenty-five (25) vehicles under this contract. Metro may choose to award multiple contracts.

## 9.0 OMISSION OF SPECIFICATIONS

No advantage shall be taken by Contractor or any sub-contractor in the omission of specifications on the part of Metro of any part or detail which goes into fulfilling the terms of this RFP.

## **PART II – PROPOSAL SUBMISSION**

This RFP represents, in writing to all proposers, the most comprehensive and definitive statement that Metro is able to make at this time as to the requirements, terms, and conditions for this solicitation. The proposal package is the proposer's opportunity to demonstrate how it will best meet the needs of Metro. A well organized, complete, concise and compliant proposal package will improve the contractor's chances of receiving an award for this project.

Any information or understandings, verbal or written, which are not contained either in the RFP or in subsequent written addenda to the RFP, will not be considered in evaluating the proposals.

### 1.0 DISCLOSURE OF PROPOSALS

Upon contract award, all proposals will be public record and posted to Metro's website. Metro recommends that proposers exclude any trade secret, proprietary or confidential information from their proposals.

### 2.0 SUBMISSION OF PROPOSALS

One hard copy marked "Original" and four (4) additional printed copies of the proposal are to be submitted in a sealed box or envelope with the name and address of the proposer clearly visible. The original and the four additional copies should be printed front-and-back. All printed copies are to be submitted in the order given in Part II, Section 8.0; they must be clearly tabbed, and sections must be easy to locate. The four copies should not include the information in Section 8.3.1; include this section only with the original. The original is to be three-hole punched.

One electronic copy of your proposal, on CD or thumb drive, shall also be submitted. Include the information listed in Section 8.3.1. In case of discrepancy between the original, printed copies and electronic copy, the paper copy marked "Original" will be considered in evaluating proposals.

The proposal shall be comprehensive, accurate, and effective without unnecessary bindings or other decorative or extraneous materials. The proposal box or envelope shall be addressed as noted in Section 3.0 below, clearly show the proposer's address, and labeled "PARATRANSIT BUSES / RFP TM-20-01."

### 3.0 PROPOSAL DELIVERY AND DUE DATE

All proposals must be received by Metro no later than the date and time specified in the Proposal Schedule on page 5. It is the responsibility of each proposer to ascertain that its proposal is received by Metro by the specified deadline. Proposals received after that date and time cannot be considered.

The proposal envelope shall be delivered by the appropriate date and time to:

Topeka Metropolitan Transit Authority  
Attn: Richard Appelhanz  
201 North Kansas Avenue  
Topeka, KS 66603

#### 4.0 CONTACT PERSONS / RFP QUESTIONS

Chip Falldine  
[cfaldine@topekametro.org](mailto:cfaldine@topekametro.org)  
785-730-8612

Richard Appelhanz  
[rappelhanz@topekametro.org](mailto:rappelhanz@topekametro.org)  
785-730-8621

Topeka Metropolitan Transit Authority  
201 North Kansas Avenue  
Topeka, KS 66603

Questions and Change Requests must be directed to one of the individual(s) listed above. The RFP number shall appear on the envelope or email. Any new information to be issued by Metro, replies to questions, and addenda or amendments to the RFP will be provided in writing to all known solicitation holders. All questions and change requests received will be answered only in writing; both the question and the answer will be shared with all known solicitation holders and posted to Metro's website.

Any questions, requests for clarification, change requests or any other communication concerning this RFP, either verbal or written, must be addressed to the individual(s) listed above. Any communication by proposers with other Metro employees, or with Metro officers, agents, board members, or any other individuals directly associated with Metro, may result in the immediate disqualification of the proposer from consideration for the award of this contract.

Metro reserves the right to accept or deny any change requested to the requirements, specifications and material aspects of the solicitation. All responses to requested changes will be posted to Metro's website and distributed to all known proposers. Questions, Requests for Clarification or Interpretation, and Change Requests may be submitted until the date listed in the Proposal Schedule on page 5.

#### 5.0 PRE-PROPOSAL CONFERENCE

Due to the nature of this procurement, there will be no pre-proposal conference.

#### 6.0 PROPOSAL PREPARATION COSTS

No payment will be provided by Metro for any of the information provided by proposers in response to this solicitation. Proposers are responsible for the entire cost of responding to this RFP, including but not limited to: preparation of proposal, pre-proposal conference, mailing of proposal, expenses pertaining to interviews and contract negotiations, and any and all legal costs incurred by the proposer.

#### 7.0 PROPOSAL POSTPONEMENT AND AMENDMENT

Metro reserves the right to revise or amend any portion of this RFP prior to the date and time for the proposal delivery. Such revisions and amendments, if any, shall be issued through addenda to this RFP. Copies of such addenda or amendments will be furnished to proposers' last known email address, and posted to Metro's website. If the revisions or addenda require changes in requested information or the format for proposal submission, the established date for submission of proposals contained in this RFP may be postponed by such number of days as, in the opinion of Metro, will enable proposers adequate time to revise their proposals. In any case, a revised proposal submission date will be at least five (5) days after the last addendum issued, and the addendum will include an announcement of the new date, if applicable, for submission of the revised proposals. Addenda or amendments to the RFP, after receipt of the proposals, will

be offered only to those proposers who qualify by having submitted proposals by the date and time required for proposal submittal.

## 8.0 REQUIRED PROPOSAL CONTENT AND FORMAT

The submitted proposal must include the required contents and follow the format outlined below. There is no page limitation in document size, but any information submitted by the Proposer is expected to be concise and relevant to the RFP and Project. Proposals that do not follow the listed format, or fail to include the required material, may be removed from consideration. Each copy of the Proposal must be complete (unless otherwise specified). Information not requested in this RFP which may enhance Metro's understanding of your proposal, including goods or services in addition to those listed in this RFP, may be attached as supplemental information. Unauthorized conditions, limitations or provisions attached to a proposal may cause its rejection.

All documents submitted with your proposal must be in a clear and readable format. For proposals on paper, please make sure that your sections are clearly marked and easy to find. For electronic proposals, Metro prefers proposers to submit a separate file for each of the required elements listed below, with brief and clearly understandable filenames (see Recommended Filenames on the Proposal Submission Checklist).

Please do not include marketing material in your proposal.

### 8.1 Cover Letter

The Cover Letter shall be brief, signed by a person who is authorized to commit the Contractor to perform the Scope as listed in Part I Section 1.0. It shall be written on firm letterhead and contain the firm name and address, and the name, email address and telephone number of the main contact person.

### 8.2 Understanding of the Scope and Specifications

Provide a brief description of your understanding of the scope and specifications listed in Part I. Provide evidence (in as brief a format as possible) that you are capable of meeting the specifications.

### 8.3 Experience and Qualifications of the Company

Provide the following items:

1. A copy of your three (3) most recent audited financial statements, or instructions regarding how Metro may view financial information. If the audits do not include a one-page summary of your balance sheet and a one-page summary of your income statement, please provide them. Include this financial information only in the original and the electronic versions – this information should not be included in the four paper copies.
2. At least five references, to which you have recently sold this type and size of bus. Contact information for references must be current.
3. A letter indicating:
  - a. you have obtained, or upon contract award will obtain, any insurance coverage required in the RFP;
  - b. the length of time you've been in business; and,
  - c. any pending plans to sell or merge your firm.

#### 8.4 Technical Specifications

Complete the Technical Specifications form in Appendix A. Attach documentation as required. Provide photographs of three recently constructed buses of this size and type.

#### 8.5 Forms and Certifications

Provide fully executed copies of all relevant forms and certifications in Part V, as well as all required attachments.

### 9.0 OTHER COMMENTS AND INSTRUCTIONS

#### 9.1 Right of Selection/Rejection

Metro reserves the right to:

- 9.1.1 Reject any and all proposals. Proposers who submit proposals that do not follow the instructions, or do not provide the information requested within this RFP, may be subject to immediate rejection;
- 9.1.2 Reject any or all proposals not in compliance with all public and/or Metro procedures and requirements;
- 9.1.3 Select proposal(s) which appear to be in the best interest of Metro;
- 9.1.4 Waive any or all irregularities in proposals submitted;
- 9.1.5 Award any or all parts of any proposal; and
- 9.1.6 Not award or postpone awards of contracts to any selected firms during the contract term.

### 10.0 SINGLE PROPOSAL RESPONSE

If only one (1) proposal is received in response to this RFP, Metro will conduct an Analysis of the proposal in order to ensure that the proposal is responsive, that the proposer is responsible, and that the price quoted is fair and reasonable. In this event, Metro will require the full cooperation of the sole proposer in order to make a determination and complete its Analysis.

### 11.0 PROPOSAL MISTAKES OR WITHDRAWAL

A proposer who seeks to rescind its proposal or correct an error in its proposal may do so no later than two business days prior to proposal due date listed in the Proposal Schedule on page 5. After the proposal due date, they may not be withdrawn for at least ninety (90) calendar days. The written notification is to be an original document, on Firm letterhead, and signed by an authorized representative of the Firm.

### 12.0 ADDENDA AND REQUESTS FOR CLARIFICATION

Requests for interpretations or clarifications shall be made by the date shown on the Proposal Schedule on page 5. All responses will be posted to Topeka Metro's website and provided to all known document holders via email by the date shown on the Proposal Schedule. Metro reserves the right to issue Addenda to the RFP at any time during this procurement process.

In order to establish a basis of quality and performance, certain requirements and qualifications may be specified in the RFP. It is not the intent of Metro to exclude other requirements or qualifications of equal value, utility or merit. Proposers may review all proposal requirements and seek exceptions or clarifications to requirements established in this document as outlined below.

It is the proposer's responsibility to ask questions, request changes or clarifications, or otherwise advise Metro if any language, specifications or requirements in the RFP appear ambiguous, contradictory, or arbitrary, or appear to inadvertently restrict or limit open competition. Metro reserves the right to make a determination, correction, or clarification whenever an inconsistency or discrepancy is found.

Proposers may discuss this RFP and any Addenda with Metro; however, such discussions will not be construed as a formal or official response or statement, nor do they relieve the proposers from responsibility for submitting written requests for exceptions or clarifications.

Metro shall make a written determination on each request. Metro will use its best efforts to disseminate addenda; however, this shall not relieve proposers of the responsibility for determining if addenda have been issued. All addenda to this RFP will be posted on the Metro website and sent via email to all known solicitation holders.

### 13.0 RESPONSIVE PROPOSALS / PROPOSER'S QUALIFICATIONS

In order to qualify as a responsible proposer, in addition to the other requirements herein provided, a proposer must be prepared to prove to the satisfaction of Metro that it has the integrity, skill, and experience to faithfully perform the conditions of the Agreement and that it has the necessary facilities and financial resources to provide goods or services in accordance with the conditions outlined herein. The proposer is expected to refrain from knowingly undertaking collaboration or representation that will create a conflict with Metro and to inform the Board and/or the General Manager promptly of any conflict that develops or they become aware of during the course of the contract with Metro. The proposer agrees to provide Metro additional information, or to clarify or supplement information already furnished, including, but not limited to information relating to its past performance, its plan for performing the requirements of the Agreement, investigations, indictments, convictions, the proposer's safety practices, and financial conditions. The proposer agrees to permit Metro to conduct site visits. To be considered skilled and experienced, the proposer must show, among other requirements of Metro, that it has satisfactorily supplied goods or services of the same general type and scope as that called for in this RFP. The proposer shall also be required to secure any necessary insurance policies or necessary licenses, permits, or certificates required by any legislative or regulatory body with jurisdiction of the subject matter and may be required to furnish evidence of same.

### 14.0 CONDITIONS AND EXCEPTIONS

Proposed deviations must be submitted on a Proposal Change Request form; Proposal Change Requests must be submitted to Metro by the date listed in the Proposal Schedule on page 5. The Change Request must show the specific reasons for the requested deviation in order for Metro to evaluate the request.

Proposers are cautioned to limit conditions, exceptions and limitations in their proposal to the provisions of this RFP. These types of deviations may be deemed fundamental to Metro's interests, and therefore cause rejection of the Proposal on the grounds that it does not properly respond to the requirements in the RFP.

All proposed conditions, exceptions and limitations will be evaluated in accordance with the appropriate evaluation criteria; these conditions, exceptions, limitations and deviations may result in the proposal receiving a less favorable score or rank.

## **PART III – PROPOSAL EVALUATION AND CONTRACT AWARD**

### 1.0 EVALUATION AND SELECTION / AWARD PROCESS

Evaluations will be conducted by a Selection Committee formed by and including the Procurement Officer of Metro. Proposers shall provide complete and concise contact information, including the name of the interested firm, the name of the authorized company representative, the appropriate mailing address, telephone number, fax number, e-mail address, and any other pertinent contact information.

Metro will make the award to the proposer who has demonstrated that it can most effectively satisfy the interests of Metro. The successful proposer shall possess the ability to perform successfully under the terms and conditions of a proposed agreement. This RFP represents, in writing to all proposers, the most comprehensive and definitive statement that Metro is able to make at this time as to the requirements, terms, and conditions for this proposal process and performance of contract services. Any information or understandings, verbal or written, which are not contained either in the RFP, or in subsequent written addenda to the RFP, will not be considered in evaluating proposals. In order to be eligible for an award of a contract, and notwithstanding its relative qualifications for purposes of the evaluation criteria and in other respects, the proposer must demonstrate to Metro's satisfaction that it is in all respects a responsible party, i.e., that it has the integrity, skill, and experience to faithfully honor the terms of the Agreement and the necessary facilities and financial resources to provide goods or perform services in accordance with the Agreement documents, and be otherwise qualified and eligible to receive an award under applicable laws and regulations. Metro is seeking the highest quality, most professional goods or services available.

The Selection Committee will review and rank the proposals based on preset evaluation criteria. The Selection Committee may, at its discretion, select any or all proposers for interviews or follow-up questions. Upon completion of proposal evaluation, the Selection Committee will make a recommendation to the Board for contract award.

Proposals will be considered responsive based on compliance with the instructions and requirements of the RFP. Proposals that do not comply, or do not include all of the required information, may be deemed unresponsive and ineligible for consideration.

### 2.0 REVIEW OF PROPOSALS

The Selection Committee will individually evaluate and rank each proposal based on pre-established evaluation criteria. Each member of the committee will total the scores for each proposer, and then the scores of all members will be added together for each proposer.

Following are the evaluation criteria, listed by degree of importance. A criterion may have multiple elements with varying degrees of importance.

- Quality of Vehicle
- Price
- Required Elements

Metro reserves the right to consider all relevant information and facts, whether gained from a proposal, from the proposer, from proposer's references, or from any other source.



### 3.0 INTERVIEW PROCESS

Proposers who have been selected for interviews will be notified. Private interviews may be held to discuss answers to written or oral questions over any part of the proposal. Interviews may be conducted concurrently. A Best and Final Offer (BAFO) may be requested from proposers. If a proposer does not submit a BAFO by the due date, their most recent proposal will be considered to be their BAFO. Any modifications to an initial proposal made in a BAFO will be evaluated using the criteria listed in Part III, Section 2.0.

Metro reserves the right to award the contract without interviews.

### 4.0 CLARIFICATION OF PROPOSALS

Metro reserves the right to obtain clarification of any point in a firm's proposal or to obtain additional information necessary to properly evaluate a particular proposal. Failure of a firm to respond to such a request for additional information or clarification may result in rejection of the firm's proposal.

### 5.0 CONTRACT AWARD

The contract will be awarded to the proposer whose proposal is the most advantageous to Metro. When the Selection Committee has decided upon a recommendation, its decision will be submitted to the Board for consideration; the Board will make the final decision for the award.

Metro plans to award the contract within ninety (90) days of the deadline for submission of proposals. Reasons for a delay in the award of the contract include, but are not necessarily limited to, the following:

- a. protests have been received,
- b. only one proposal was received,
- c. an issue requiring FTA response is pending,
- d. the award is made to a proposer who fails to enter into a contract.

If the award is delayed, proposals will remain valid for an additional sixty (60) days to afford Metro a reasonable opportunity to award the contract. No proposer may withdraw their proposal during that time.

If the proposer to whom the award is made fails to enter into a contract with Metro, the award will be cancelled. In that event, Metro reserves the right to make an award to the next most acceptable proposer, to re-enter negotiations with remaining proposers, or to cancel and reissue the RFP.



## **PART IV – GENERAL INFORMATION AND REQUIREMENTS**

### 1.0 ACCESS TO RECORDS

The Contractor agrees to provide Metro, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 CFR 633.15 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 USC 5302 and 49 CFR 633.5, which is receiving federal financial assistance through the programs described at 49 USC 5307, 5309 or 5311. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until Metro, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 2 CFR 200.333 and 2 CFR 200.336. FTA does not require the inclusion of these requirements in subcontracts.

### 2.0 ADA ACCESS

In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 USC 12112, Contractor agrees that it will comply with the requirements of the US Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

### 3.0 ASSIGNMENT AND DELEGATION

Contractor shall neither delegate any duties or obligations under this contract, nor assign, transfer, convey, sublet, subcontract or otherwise dispose of the contract or its right, duty, title or interest in or to the same, or any part thereof, without previous written consent of Metro.

### 4.0 BREACHES AND DISPUTE RESOLUTION

- 4.1 Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of Metro's Contract Administrator. This decision shall be final and conclusive unless within ten (10) calendar days from the date of receipt of its copy, the contractor submits a written appeal to the Contract Administrator. 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 Contract Administrator shall be binding upon the contractor, and the contractor shall abide by the decision.
- 4.2 Unless otherwise directed by Metro, the contractor shall continue performance under this contract while matters in dispute are being resolved.
- 4.3 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 party's employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party as soon as practicable after the injury or damage is first known or ascertainable, and in no event later than fifteen (15) calendar days thereafter.
- 4.4 Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between Metro 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 the district court of Shawnee County, Kansas.
- 4.5 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 Metro or the contractor shall

constitute a waiver of any right or duty afforded any of them under this 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.

## 5.0 BUS TESTING

The Manufacturer agrees to comply with 49 USC A5323(c) and FTA's implementing regulations at 49 CFR Part 665 and shall perform the following: (1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle; (2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public; (3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing; (4) If the manufacturer represents that the vehicle is grandfathered (that is has been in mass transit service in the U.S. before 10/01/1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

## 6.0 BUY AMERICA

The Contractor agrees to comply with 49 USC 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7. Separate requirements for rolling stock are set out at 49 USC 5323(j)(2)(c) and 49 CFR 611.11. Rolling stock must be assembled in the United States and have over 60% domestic content for deliveries prior to FY2018, over 65% for deliveries in FY2018 and FY2019, and over 70% for deliveries in FY2020 and thereafter. A bidder or offeror must submit to Metro the appropriate Buy America certification with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier sub-contractors.

## 7.0 CARGO PREFERENCE

The contractor agrees: (1) to use privately owned US-Flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the contract to the extent such vessels are available at fair and reasonable rates for US-Flag commercial vessels; (2) to furnish within 20 working days following the date of loading for shipments originating within the U.S. or within 30 working days following the date of loading for shipments originating outside the U.S., a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described above to:

Division of National Cargo  
Office of Market Development  
Maritime Administration  
Washington, DC 20590

with a copy to Metro (through the contractor in the case of a subcontractor's bill-of-lading); and, (3) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

## 8.0 CIVIL RIGHTS

- 8.1 Nondiscrimination – In accordance with Title VI of the Civil Rights Act, as amended, 42 USC 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 USC 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 USC 12132, and Federal transit law at 49 USC 5332, the contractor agrees that it will not discriminate against any employee or applicant for employment because

- of race, color, creed, national origin, sex, age, or disability. In addition, the contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- 8.2 Equal Employment Opportunity – The following equal employment opportunity requirements apply to the underlying contract:
- 8.2.1 Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 USC 2000e, and Federal transit law at 49 USC 5332, the contractor agrees to comply with all applicable equal employment opportunity requirements of US Department of Labor (USDOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 CFR Parts 60 et seq., and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the project. 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, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the contractor agrees to comply with any implementing requirements FTA may issue.
- 8.2.2 Age – In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 USC 623 and Federal transit law at 49 USC 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- 8.2.3 Disabilities – In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 USC 12112, the Contractor agrees that it will comply with the requirements of the US Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the contractor agrees to comply with any implementing requirements FTA may issue.
- 8.3 The contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

## 9.0 CLEAN AIR AND WATER

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC 7401 et seq., and the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor agrees to report each violation to Metro and understands and agrees that Metro will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

## 10.0 COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS

Contractor shall at all times be solely responsible for complying with all applicable local, state and federal laws, ordinances and regulations in connection with the performance of this contract.

## 11.0 CONFIDENTIALITY

Between the date and time that proposals are due, until award of the contract by Metro, no information will be released which may have an adverse impact upon the negotiations or selection process. No information will be shared about the distinguishing characteristics or deficient characteristics of any proposal. All documents received by Metro are subject to the Kansas Open Records Act, KSA 45-215, et seq., and the Freedom of Information Act, 5 USC 552.

## 12.0 CONFLICT OF INTEREST

No director or employee of Topeka Metropolitan Transit Authority, during his/her tenure or within one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof.

### 13.0 CONTRACT CHANGES

Any proposed change to this contract shall be submitted to Metro in writing for approval. No change in this contract shall be made unless Metro gives prior written approval. Contractor shall be liable for all costs, damages and/or liabilities, and for proper corrections, resulting from any specification change not properly approved in writing by Metro. Changes that have not been approved by Metro shall place Contractor in default of the contract.

### 14.0 CONTRACT WORK HOURS & SAFETY STANDARDS

- 14.1 Overtime Requirements – No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek, unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 14.2 Violation; Liability for Unpaid Wages; Liquidated Damages – In the event of any violation of the clause set forth in paragraph 14.1, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 14.1, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 14.1.
- 14.3 Withholding for Unpaid Wages and Liquidated Damages – Metro 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 the clause set forth in paragraph 14.2.
- 14.4 Subcontracts – The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 14.1 through 14.4 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 paragraphs 14.1 through 14.4.

### 15.0 DISADVANTAGED BUSINESS ENTERPRISE (DBE)

- 15.1 This contract is subject to the requirements of 49 CFR Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. Metro's overall 2019-2021 goal for DBE participation is 2.00%; the race neutral goal is 1.12%, and the race conscious goal is 0.88%. There is no contract goal for this procurement.
- 15.2 The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Metro deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- 15.3 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 Metro.
- 15.4 The contractor may not hold retainage from its subcontractors.
- 15.5 The contractor must promptly notify Metro, 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 Metro.

#### 16.0 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.

#### 17.0 EXCLUSIONARY OR DISCRIMINATORY SPECIFICATIONS

Metro will comply with the requirements of 49 USC 5323(h)(2) by refraining from using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

#### 18.0 FEDERAL CHANGES

The contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Metro and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

#### 19.0 FLY AMERICA

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

#### 20.0 INCORPORATION OF FTA TERMS

These contract provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the included contract provisions. All contractual provisions required by USDOT, as set forth in the current version of FTA Circular C 4220.1, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any Metro requests which would cause Metro to be in violation of the FTA terms and conditions.

#### 21.0 INDEMNIFICATION

Contractor shall be responsible for and indemnify, defend and hold harmless Metro, its directors and employees from all demands, claims, suits and settlements for loss of or damages to property, or personal injuries, including death to persons, and from all judgments recovered, and from all expenses incurred in defending or settling said claims or suits, or enforcing this provision, including court costs and attorney fees and other expenses arising out of the errors, omissions or negligent acts of the Contractor, its employees, or agents in connection with the goods and/or services provided under this contract.

#### 22.0 INSURANCE

Contractor shall maintain for the duration of the contract such insurance as will protect it and Metro from all claims, including Workers' Compensation, and will hold Metro harmless from, and indemnify Metro for, all claims and damages which may arise out of or result from the Contractor's operations under this contract, whether such operations



are by Contractor, by a subcontractor, by anyone directly or indirectly employed by them, or by anyone for whose acts any of them may be liable. Contractor will submit certificates or other proof of insurance to Metro, naming Metro as an additional insured, upon notification of contract award.

#### 23.0 INTEREST OF CONGRESS

No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this contract or to any benefit arising therefrom.

#### 24.0 LOBBYING

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR 20.110, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier, up to Metro.

#### 25.0 NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

Metro and the contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this 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 Metro, the contractor, or any other party (whether or not a party to this contract) pertaining to any matter resulting from this contract. 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 this clause shall not be modified, except to identify the subcontractor who will be subject to its provision.

#### 26.0 PATENT INFRINGEMENT

Contractor agrees that it will, at its own expense, defend all suits and all proceedings instituted against Metro, if such suits and proceedings are based on any claim that the materials or equipment provided by Contractor, or any part thereof, or any tool, article or process used in the manufacture thereof, constitutes an infringement of any patent. Metro will give Contractor prompt notice in writing of any suit or proceeding, and will give Contractor all needed information, assistance and authority to enable Contractor, through its legal counsel, to defend the same.

#### 27.0 PRE-AWARD AND POST-DELIVERY AUDITS

The Contractor agrees to comply with 49 USC 5323(1) and FTA implementing regulations at 49 CFR Part 663 and to submit the following certifications: (1) Buy America – The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder certifies compliance with Buy America, it shall submit documentation which lists (a) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and (b) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly; (2) Solicitation – The Contractor shall submit evidence that it will be capable of meeting the bid specifications; (3) FMVSS – The Contractor shall submit (a) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS, or (b) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

#### 28.0 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS

- 28.1 The contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801, et seq. and US DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this project. Upon execution of this 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 this 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.
- 28.2 The contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307 on the contractor, to the extent the Federal Government deems appropriate.
- 28.3 The contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

## 29.0 PROTEST PROCEDURE

All protests in the procurement cycle must contain the following information: (1) Name of Protestor; (2) RFP Number; (3) Statement of grounds for protest; and, (4) All supporting documentation. All protest documents shall be sent to:

Topeka Metropolitan Transit Authority  
Attn: Procurement Officer  
201 North Kansas Avenue  
Topeka, KS 66603

The words "Protest / Open Immediately" must appear on the outside of the mailing envelope.

Pre-award protests filed in conjunction with the schedule or RFP documents must be filed in writing no less than five (5) days prior to the final submission date of proposals. Post-award protests must be filed within five (5) days of the notice of award.

Protests will be reviewed by the Procurement Officer, who will make a determination. This determination will be sent to all known proposers by certified mail within five (5) days of the receipt of the protest. The FTA will be notified of any protest received pertaining to this project.

If the protester wishes to appeal the determination of the Procurement Officer, an appeal must be filed in writing to the Metro Board of Directors, at the address listed above, within five (5) days of the determination. The words "Protest / Open Immediately" must appear on the outside of the mailing envelope. The Board of Directors will make a decision on the appeal at its next regularly scheduled meeting following receipt of the appeal. The decision of the Board of Directors is final.

The FTA will entertain an appeal of the Board's final decision only under one of the following four conditions: (1) Metro did not follow its protest procedure; (2) Metro failed to review the protest; (3) data becomes available that was not previously known; or, (4) there was an error of law.

## 30.0 SEAT BELT USE

In accordance with the provisions of Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 USC 402 note, by adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned or rented vehicles or personally owned vehicles, and by including a "Seat Belt Use" provision in each third-party agreement related to the project.

## 31.0 SUSPENSION AND DEBARMENT

In accordance with 2 CFR Parts 180 and 1200, the contractor is required to verify that none of its principals or affiliates: 1) is included on the federal government's suspended and debarred list; 2) is proposed for debarment, declared ineligible, voluntarily excluded or disqualified; 3) within three years preceding this proposal, has not been convicted of or had a civil judgment rendered against them for (a) commission of fraud or criminal offense pertaining

to performing a public transaction, (b) violation of any federal or state antitrust statute, or (c) embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; 4) is indicted or charged by a governmental entity for any of the charges in 3) above; and 5) has had any public transaction terminated for cause or default within three years preceding this proposal. The contractor is required to include this requirement in any subcontracts related to this contract. By signing and submitting its proposal, the proposer certifies that the certification in this clause is a material representation of fact relied upon by Metro. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to Metro, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The proposer agrees to verify that none of its principals or affiliates is included on the federal government's suspended and debarred list at any time throughout the period of this contract. The proposer further agrees to include a provision requiring the same compliance in its subcontracts related to this contract.

### 32.0 TERMINATION

Termination for Convenience – Metro may terminate this contract, in whole or in part, at any time by written notice to the contractor when it is in the Metro'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 Metro to be paid to the contractor. If the contractor has any property in its possession belonging to Metro, the contractor will account for the same, and dispose of it in the manner Metro directs.

Termination for Default – 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, Metro 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 only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by Metro 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, Metro, 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 – Metro 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. If contractor fails to remedy to Metro'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 Metro setting forth the nature of said breach or default, Metro shall have the right to terminate the contract without any further obligation to the contractor. Any such termination for default shall not in any way operate to preclude Metro 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 Metro elects to waive its remedies for any breach by contractor of any covenant, term or condition of this contract, such waiver by Metro shall not limit Metro's remedies for any succeeding breach of that or of any other term, covenant, or condition of this contract.

### 33.0 TRANSIT VEHICLE MANUFACTURER

Pursuant to 49 CFR 26.49, a proposer, as a condition of being authorized to respond to this solicitation, must certify by completing the Transit Vehicle Manufacturer's Certification, that it has on file with the FTA an approved or not disapproved annual DBE subcontracting participation goal. Each proposer must also submit a copy of the FTA letter approving their DBE goal. Metro will validate each proposer's TVM certification at [www.fta.dot.gov/dbe](http://www.fta.dot.gov/dbe) prior to proposal evaluation.



## **PART V – ATTACHMENTS**

The forms provided in this section must be completed and included in the proposal package. Please attach required documents as necessary for each form. You may substitute your own forms as long as the content of your forms is the same as the forms provided.

PLEASE NOTE: Return only one Acknowledgement – there are separate acknowledgement forms for (1) sole proprietorship/partnership, and for (2) corporations.

Acknowledgement (complete only one)  
Acknowledgement of Addenda  
Bus Testing Certification  
Buy America Certification  
Fly America Certification  
FMVSS Certification  
Lobbying Certification  
Non-Collusion Certification  
Power of Execution  
Price Quote  
Proposal Change Request  
Proposal Submission Checklist  
Suspension/Debarment Certification  
TVM Certification

**ACKNOWLEDGEMENT**  
**Individual / Partnership**

STATE OF )  
 )  
COUNTY OF )  
 )

I, \_\_\_\_\_, a Notary Public in and for said County, in the State aforesaid, do hereby certify that \_\_\_\_\_, who is/are personally known to me, appeared before me this day in person, and acknowledged the signature, seal and delivery of the foregoing instrument as a free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notary seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

(SEAL)

**ACKNOWLEDGEMENT**  
**Corporation**

STATE OF )  
 )  
COUNTY OF )  
 )

I, \_\_\_\_\_, a Notary Public in and for said County, in the State aforesaid, do hereby certify that \_\_\_\_\_, and \_\_\_\_\_, of \_\_\_\_\_, (a corporation)

who are each personally known to me, appeared before me this day in person and severally acknowledged that they signed, sealed and delivered the foregoing instrument as their free and voluntary act as officers of the corporation identified above as the Proposer, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and notary seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public

(SEAL)

**ACKNOWLEDGEMENT OF ADDENDA**

The following form shall be completed and included in the proposal. Failure to acknowledge receipt of all addenda may cause the proposal to be considered unresponsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the Proposal. Make copies of this form if more than five (5) addenda were issued.

ACKNOWLEDGEMENT OF ADDENDA

The undersigned acknowledges receipt of the following addenda to RFP TM-20-01:

Addendum Number \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum Number \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum Number \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum Number \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum Number \_\_\_\_\_ Dated: \_\_\_\_\_

Proposer \_\_\_\_\_

Street Address \_\_\_\_\_

Street Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Telephone Number \_\_\_\_\_

Facsimile Number (FAX) \_\_\_\_\_

E-Mail Address \_\_\_\_\_

**BUS TESTING CERTIFICATION**

The undersigned contractor or manufacturer certifies that the vehicle offered in this procurement complies and will, when delivered, comply with 49 USC 5323(c) and FTA’s implementing regulation at 49 CFR Part 665 according to the indicated alternative below. Complete this form for each type of vehicle proposed.

*Mark one and only one of the three blank spaces with an “X.”*

\_\_\_\_\_ The buses offered herewith have been tested in accordance with 49 CFR Part 665 on \_\_\_\_\_ (date). If multiple buses are being proposed, provide additional bus testing information below or on an attached sheet. The vehicles being sold should have the identical configuration and major components as the vehicle in the test report, which must be submitted with this proposal. If the configuration or components are not identical, then the manufacturer shall provide with its proposal a description of the change and the manufacturer’s basis for concluding that it is not a major change requiring additional testing. If multiple buses are being proposed, testing data on additional buses shall be listed below or on an attached sheet. Attach a copy of the Altoona Bus Testing Report for each type of bus proposed.

\_\_\_\_\_ The manufacturer represents that the vehicle is “grandfathered” (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), and submits with this proposal the name and address of the recipient of such a vehicle and the details of that vehicle’s configuration and major components.

\_\_\_\_\_ The vehicle is a new model and will be tested. The Altoona Bus Testing Report will be submitted to Topeka Metro prior to acceptance of the first bus.

The undersigned understands that misrepresenting the testing status of a vehicle acquired with Federal financial assistance may subject the undersigned to civil penalties as outlined in the Department of Transportation’s regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the undersigned understands that FTA may suspend or debar a manufacturer under the procedures in 2 CFR Parts 180 and 1200.

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Date: \_\_\_\_\_

**BUY AMERICA CERTIFICATION**

Proposer will certify either compliance or non-compliance, not both. This certification must be submitted with the proposer's response. Complete this form for each type of vehicle proposed.

**Certificate of Compliance**

The proposer hereby certifies that it will comply with the requirements of 49 USC 5323(j), Section 165 of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 CFR Part 661:

Signature: \_\_\_\_\_

Name & Title: \_\_\_\_\_

Company: \_\_\_\_\_

Date: \_\_\_\_\_

Attach a pre-award Buy America certification, listing American-made components, percentage of total cost, location of final assembly, and a description and cost of final assembly.

**Certificate of Non-Compliance**

The bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirements consistent with 49 U.S.C. 5323(j)(2), and the applicable regulations in 49 C.F.R. 661.9:

Signature: \_\_\_\_\_

Name & Title: \_\_\_\_\_

Company: \_\_\_\_\_

Date: \_\_\_\_\_

**FLY AMERICA CERTIFICATION**

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

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Date: \_\_\_\_\_

**FEDERAL MOTOR VEHICLE SAFETY STANDARDS CERTIFICATION**  
**In regard to 49 CFR Part 571**

The undersigned Contractor or Manufacturer certifies that this vehicle meets all applicable Federal Motor Vehicle Safety Standards, as designed by the National Highway Traffic Safety Administration in 49 CFR Part 571.

\_\_\_\_\_ The vehicle being bid has been tested and a copy of the self-certification sticker is attached.

\_\_\_\_\_ The vehicle being bid is exempt from testing.

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Date: \_\_\_\_\_

Complete this form for each type of vehicle proposed.



**LOBBYING CERTIFICATION**

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. See 49 CFR 20.100.

(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 sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. [Note: Pursuant to 31 USC 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure. See 49 CFR 20.400.]

The undersigned contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 USC 3801, et seq, apply to this certification and disclosure, if any.

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Date: \_\_\_\_\_

**NON-COLLUSION CERTIFICATION**

This is my sworn statement to certify that this proposal was not made in the interest of or on behalf of any undisclosed entity. This proposal is not collusive.

This proposer has not been a party to any agreement or collusion in restraint of freedom of competition by agreement to bid a fixed price, to refrain from bidding, or otherwise. This proposer has not, directly or indirectly, by agreement, communication or conference with anyone, attempted to induce action prejudicial to the interest of Topeka Metropolitan Transit Authority, or of any proposer, or anyone else interested in the proposed contract.

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Date: \_\_\_\_\_

**POWER OF EXECUTION**

Authorization of Bidder

The undersigned, an \_\_\_\_\_ of  
(officer, partner, proprietor, etc.)

\_\_\_\_\_,  
(name of company)

a \_\_\_\_\_  
(corporation, partnership, proprietorship)

having its principal office or registered agent at \_\_\_\_\_,  
hereby certifies that the Company has duly authorized by appropriate action and/or hereby does

nominate, constitute, appoint and authorize \_\_\_\_\_  
(name of individual signing document)

with full power to act \_\_\_\_\_, on behalf of  
(alone or in conjunction with another person)

\_\_\_\_\_,  
(name of company)

and thereby to make, execute, seal and deliver on its behalf as CONTRACTOR and as its act and deed any and all proposals, contract proposals, contracts, change orders, monthly and final payment certificates and other like instruments. Such proposals, contract proposals, contracts, change orders, monthly and final payment certificates and other like instruments shall be binding upon said company as fully and to all intents and purposes as if such instruments had been duly executed, acknowledged and delivered by the authorized officers of the company when executed, by the aforementioned person(s).

\_\_\_\_\_  
Company

\_\_\_\_\_  
Signature, Title

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Notary Public (if proprietorship)  
Secretary of Corporation (if corporation)  
Partner (if Partnership)

**PRICE QUOTE**

Proposer \_\_\_\_\_

RFP Number – TM-20-01

Topeka Metro is tax exempt – do not include sales or use tax in your price quote. Please quote the entire price of the bus, including delivery or destination charges – the price quoted must be the total invoiced price. The date of Metro’s purchase order will determine the year of the contract.

Price of One (1) Cutaway Paratransit Bus

Price of One (1) Low-Floor Cutaway Paratransit Bus

Year 1 \_\_\_\_\_

Year 1 \_\_\_\_\_

Price of Ten (10) Cutaway Paratransit Buses

Price of Ten (10) Low-Floor Cutaway Paratransit Buses

Year 1 \_\_\_\_\_

Year 1 \_\_\_\_\_

Lead Time on Bus Orders

\_\_\_\_\_ months

You may bid on one or both types of buses. If necessary, complete this form for each type of vehicle proposed.

The price of a bus in Year 1 is the Base Price. Each proposer should quote a base price for Year 1 only. The most recent annual percentage increase in the Producer Price Index (PPI) will be used to determine the maximum allowable price increase for years 2-5, with the understanding that future regulatory actions may also change the quoted bus price.

Concerning emissions and other mandated changes, proposed vehicles must meet all federal and state regulations currently in effect. Price changes due to future regulatory action will be negotiated and agreed upon by Metro and the contractor.

**PROPOSAL CHANGE REQUEST**

Complete this form for each condition, exception, reservation, or understanding (i.e., change) in the proposal. See PROPOSAL SCHEDULE, page 5 of this RFP, for the due date of all requested Proposal Changes.

Change Number \_\_\_\_\_

Proposer \_\_\_\_\_

RFP Number – TM-20-01                      Page: \_\_\_\_\_                      Section: \_\_\_\_\_

Metro’s Current Requirement:

Proposer’s Requested Change:

### **PROPOSAL SUBMISSION CHECKLIST**

This checklist is for the proposers' convenience and does not alter the requirements in the RFP. In the event of a conflict between this list and the RFP specifications, the RFP specifications prevail. See Part II, Section 8.0 for a detailed explanation of the items listed below.

	<u>Item to be Submitted</u>	<u>Recommended Filename</u>
___	8.1 Cover Letter	8.1 Cover Letter
___	8.2.1 Description of Understanding	8.2.1 Understanding
___	8.2.2 Evidence of Capability	8.2.2 Capability
___	8.3.1 Three Most Recent Audits (Original and electronic copies only)	8.3.1 Audit 1 8.3.1 Audit 2 8.3.1 Audit 3
___	8.3.1 One-Page F/S Summaries (if applicable) (Original and electronic copies only)	8.3.1 Summary 1 8.3.1 Summary 2 8.3.1 Summary 3
___	8.3.2 References	8.3.2 References
___	8.3.3 Qualification Letter	8.3.3 Qualifications
___	8.4 Technical Specs and Photographs (Appendix A)	8.4 Appendix A 8.4 Attachments 8.4 Photographs
___	8.5 Forms & Certifications	8.5 Forms
___	___ Acknowledgement (only one)	
___	___ Acknowledgement of Addenda	
___	___ Bus Testing Certification (attachment)	8.5 Altoona Report
___	___ Buy America Certification (attachment)	8.5 Buy America Content
___	___ Fly America Certification	
___	___ FMVSS Certification (attachment)	8.5 FMVSS Sticker
___	___ Lobbying Certification	
___	___ Non-Collusion Certification	
___	___ Power of Execution	
___	___ Price Quote	
___	___ Suspension/Debarment Certification	
___	___ TVM Certification (attachment)	8.5 TVM Letter
___	___ Warranty Information	

A full copy of the RFP is not a required part of your proposal – include only the items listed above. Submit one (1) hard-copy original proposal. Make sure it is clearly labelled “Original.” The original is to be printed front-and-back. Be sure all material is included, and that each section is clearly marked and easy to find. Submit four (4) proposal copies on paper. Make sure all of the above-listed material (except 8.3.1) is included in all copies. Front-and-back copies are preferred. Be sure each section is clearly marked and easy to find. Submit one (1) proposal on cd or stick drive with all of the above information and filenames as listed.

**SUSPENSION / DEBARMENT CERTIFICATION**

**In regard to 2 CFR Parts 180 and 1200**

In accordance with 2 CFR Parts 180 and 1200, the contractor is required to verify that none of its principals or affiliates:

- 1) is included on the federal government's suspended and debarred list;
- 2) is proposed for debarment, declared ineligible, voluntarily excluded or disqualified;
- 3) within three years preceding this proposal, has been convicted of or had a civil judgment rendered against them for (a) commission of fraud or criminal offense pertaining to performing a public transaction, (b) violation of any federal or state antitrust statute, or (c) embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
- 4) is indicted or charged by a governmental entity for any of the charges in 3) above; and
- 5) has had any public transaction terminated for cause or default within three years preceding this proposal.

The contractor is required to include this requirement in any subcontracts related to this contract.

By signing and submitting its proposal, the proposer certifies that the certification in this clause is a material representation of fact relied upon by Metro. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to Metro, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The proposer agrees to verify that none of its principals or affiliates is included on the federal government's suspended and debarred list at any time throughout the period of this contract. The proposer further agrees to include a provision requiring the same compliance in its subcontracts related to this contract.

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Date: \_\_\_\_\_

**TRANSIT VEHICLE MANUFACTURER'S CERTIFICATION**  
49 CFR Part 26

The undersigned contractor or manufacturer certifies that it has complied with the requirements of 49 CFR 26.49, and has submitted the required documents to the FTA. The undersigned also certifies that its DBE goal submission has been accepted by FTA, and that a copy of their FTA approval letter is attached to this certification.

Upon receipt of this certification and accompanying FTA approval letter, Topeka Metro will validate the proposer's TVM certification at [www.fta.dot.gov/dbe](http://www.fta.dot.gov/dbe) prior to proposal evaluation.

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Date: \_\_\_\_\_