

Federal Transit Administration Requirements for Rolling Stock

As a recipient of Federal Transportation Administration (FTA) grants, EMBARK agrees annually in the Master Agreement with FTA (<http://www.fta.dot.gov/documents/21-Master.pdf>) to adhere to all applicable federal laws, regulations, and directives associated with federal funding along with the FTA Certifications and Assurances for Federal Funding Assistance Program. EMBARK Contractors are also required to comply with those federal clauses to which are herein incorporated by reference and made a part of this Agreement. The FTA Certifications and Assurances are available at the following link:
http://www.fta.dot.gov/documents/Fiscal_Year_2015_Annual_List_of_Certifications_and_Assurances_for_FTA_Grants_and_Cooperative_Agreements.pdf

No Obligation by the Federal Government.

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

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

Required Federal Contract Clauses	Website for Federal Clause Language	Master Agreement Reference
Incorporation of FTA Terms	http://www.fta.dot.gov/12831_6195.html#BM30	§ 17.a
False Statements or Claims Civil and Criminal Fraud	http://www.fta.dot.gov/12831_6195.html#BM20	§ 3.f
Access to Third Party Contract Records	http://www.fta.dot.gov/12831_6195.html#BM11	§ 17.v
Changes to Federal Requirements	http://www.fta.dot.gov/12831_6195.html#BM12	§ 2.i(4)
Disadvantaged Business Enterprises (DBEs)	http://www.fta.dot.gov/12831_6195.html#BM28	§ 13.d
Energy Conservation	http://www.fta.dot.gov/12831_6195.html#BM6	§ 30
Fly America- For foreign air transport or travel only	http://www.fta.dot.gov/12831_6195.html#BM1	§ 16.c
Cargo Preference – property transported by ocean vessel	http://www.fta.dot.gov/12831_6195.html#BM4	§ 16.b
ADA Access	http://www.fta.dot.gov/12831_6195.html#BM24	§ 13.g
Procurements Over \$10,000		
Civil Rights (Title VI, EEO, ADA)	http://www.fta.dot.gov/12831_6195.html#BM24	§ 13

Recycled Products – items designated by EPA	http://www.fta.dot.gov/12831_6195.html#BM15	§ 17.m
Procurements Over \$25,000		
Suspension and Debarment	http://www.fta.dot.gov/12831_6195.html#BM22	§ 3.b
Procurements Over \$100,000		
Buy America	http://www.fta.dot.gov/12831_6195.html#BM2	§16.a
Lobbying	http://www.fta.dot.gov/12831_6195.html#BM10	§ 3.d
Clean Air	http://www.fta.dot.gov/12831_6195.html#BM14	§ 17.n
Clean Water	http://www.fta.dot.gov/12831_6195.html#BM7	§ 17.n
ITS Projects		
All ITS Projects Conformance with ITS National Architecture	http://www.gpo.gov/fdsys/pkg/FR-2001-01-08/pdf/01-392.pdf#page=1	§ 17.o

By signing this document, I declare that I am duly authorized to make these certifications and assurances and bind the Contractor. Thus, the Contractor agrees to comply with all City, State and Federal statutes, regulations, executive orders, and administrative guidance required for this Agreement. In signing this document, I declare under penalties of perjury that the forgoing certifications, assurances, and any other statements made by me on behalf of the contractor are true and correct.

IN WITNESS WHEREOF, the parties hereto have executed this instrument, the day, month and year first above written.

(SEAL)

Name of Corporation or Firm

ATTEST:

Secretary

Authorized Signature Title

Print the Above Name and Title

Certifications Requiring Separate Signature

Suspension and Debarment Certification – Contracts over \$25,000

The certification in this clause is a material representation of fact relied upon by **COTPA**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **COTPA** the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Date _____ Signature _____

Company Name _____

Title _____

Lobbying – Contracts over \$100,000

The 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 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Date _____ Signature _____

Company Name _____

Title _____

Buy America - Contracts over \$100,000 Certification requirement for procurement of buses, other rolling stock and associated equipment.

Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C).

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

<http://www.gpo.gov/fdsys/pkg/USCODE-2008-title49/pdf/USCODE-2008-title49-subtitleIII-chap53-sec5323.pdf>

<http://www.gpo.gov/fdsys/granule/CFR-2007-title49-vol7/CFR-2007-title49-vol7-sec661-5>

Date _____ Signature _____

Company Name _____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____ Signature _____

Company Name _____

Title _____

DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 CFR Part 26

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. COTPA's DBE goal is 1.62% and the contract goal is designated in the comments section of the solicitation. The Bidder shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Bidder shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Bidder 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 COTPA deems appropriate. Each subcontract the Bidder signs with a sub-contractor must include the assurance in this paragraph (see 49 CFR 26.13 (b)). The Bidder is required to pay its sub-contractor performing work related to this contract for satisfactory performance of that work no later than 30 days after the Bidder's receipt of payment for that work for COTPA. In addition, the Bidder may not hold retainage from its sub-contractor.

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

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Each Proposer shall comply with all rules and regulations promulgated by the Federal Transit Administration of the U.S. DOT regarding participation of Disadvantaged Business Enterprises in contracting opportunities created by any contract awarded under this solicitation. Each Proposer must submit the appropriate, prepared, and signed DBE certification. DBE Certification for Non-Rolling stock: Appendix 9 I; DBE Certification for Rolling stock: Appendix 9 J (Required) Contract Assurance (§26.13)

COTPA's DBE goal is 1.62% and the contract goal is designated in the comments section of the solicitation. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Company Name _____ Signature _____

Title _____ Date _____