

**NEW HANOVER**

**REQUEST FOR PROPOSALS**

**NON-EMERGENCY TRANSPORTATION SERVICES**

**DEPARTMENT OF SOCIAL SERVICES & SENIOR RESOURCE CENTER**

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**COUNTY COMMISSIONERS**

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**NEW HANOVER**

**REQUEST FOR PROPOSALS**

**NON-EMERGENCY TRANSPORTATION SERVICES**

**DEPARTMENT OF SOCIAL SERVICES & SENIOR RESOURCE CENTER**

Sealed proposals addressed to Lena E. Butler, Purchasing Supervisor, 230 Government Center Drive, Suite 165, Wilmington, North Carolina 28403 and marked “**NON-EMERGENCY TRANSPORTATION SERVICES**” will be accepted until **5:00 P.M. EST, Monday, June 20, 2022**.

Proposals may also be emailed to [lbutler@nhcgov.com](mailto:lbutler@nhcgov.com). Please include “Non-Emergency Transportation Services” in the Subject Line of the email.

A pre-proposal meeting will be held **Tuesday, May 31, 2022**, from **9:00 – 10:30 AM** via Microsoft Teams. Please email [lbutler@nhcgov.com](mailto:lbutler@nhcgov.com) to receive an invitation to the meeting. All Service Providers who desire to submit their proposal for consideration for this service are invited to attend; however, attendance is not required to submit a proposal.

Instructions for submitting proposals and complete requirements and information may be obtained by visiting the County’s website at <http://www.nhcgov.com/business-nhc/bids> or at the [State of North Carolina Interactive Purchasing System site](#).

New Hanover reserves the right to accept or reject any or all proposals and to make the award which will be most advantageous to the County.

Published: Thursday, May 19, 2022

**Section 2 Information, Requirements and Conditions**

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This serves as an official notice that New Hanover, through its Department of Social Services and Senior Resource Center (NEW HANOVER COUNTY), is soliciting and will receive proposals for Non-Emergency Transportation Services as outlined in the following specifications. This Request for Proposals (RFP) process is the means by which New Hanover County will determine which Service Providers are most qualified to meet the Non-Emergency Transportation needs of Department of Social Services and Senior Resource Center passengers. The proposal must include all requirements, as defined below.

**Schedule**

<b>DATE</b>	<b>EVENT</b>
May 19, 2022	<i>Issuance of RFP</i>
May 31, 2022	<b><i>Pre-proposal meeting</i></b> will be held from 9:00 – 10:30 AM. All interested Service Providers should attend.
June 6, 2022	<i>Questions are due by 5:00 PM.</i>
June 9, 2022	<i>Response to Questions Issued</i>
June 20, 2022	<i>Proposal Submission.</i> Complete proposals are due by <b>5:00 PM</b> as described.
June 22-24, 2022	<i>Evaluation.</i> During this period, the Evaluation Committee will conduct a full detailed evaluation of Proposals and References.
July 1, 2022	<i>Contract starts. Service Begins</i>

**Questions**

Any inquires, requests for interpretation, clarification, or additional information shall be directed to **Lena Butler, Purchasing Supervisor** by emailing [lbutler@nhcgov.com](mailto:lbutler@nhcgov.com). All questions and responses will be provided by issuance of an Addendum and posted online at <http://www.nhcgov.com/business-nhc/bids> and at the [State of North Carolina Interactive Purchasing System site](#). All questions shall be received no later than 5:00 P.M., EST, June 6, 2022.

**Pre-proposal Meeting**

A pre-proposal meeting will be held **May 31, 2022, from 9:00-10:30 AM EST** via Microsoft Teams. Please email [lbutler@nhcgov.com](mailto:lbutler@nhcgov.com) to receive an invitation to the meeting. All Service Providers who desire to submit their proposal for consideration for this service are invited to attend; however, attendance is not required to submit a proposal.

### **Submittal Process**

Proposals must be received no later than **June 20, 2022, at 5:00 PM EST**. Any late proposals will not be accepted.

Proposals may be hand delivered to:

New Hanover County  
Attn: Lena Butler, Purchasing Supervisor  
230 Government Center Drive, Suite 165  
Wilmington, NC 28403.

Hand delivered proposals must include:

1. One (1) original signed proposal.
2. Four (4) copies of the proposal.
3. One (1) USB drive containing complete proposal

Proposals may also be emailed to [lbutler@nhcgov.com](mailto:lbutler@nhcgov.com). Please include "Non-Emergency Transportation Services" in the Subject Line of the email.

### **Selection Process**

County may, in its discretion, require one or more Service Providers to make presentations to the evaluation team or appear before Management and/or its representatives for an interview. During such interview, the Service Provider may be required to orally and otherwise present its proposal and to respond in detail to any questions posed. Additional meetings may be held to clarify issues or to address comments, as deemed appropriate. Service Providers will be notified in advance of the time and format of such meetings. Since New Hanover may choose to award a contract without engaging in discussions or negotiations, the Proposals submitted shall define the Service Provider's best offer for performing the Services described in this RFP.

The commencement of such discussions, however, does not signify a commitment by the County to execute a contract or to continue discussions. The County can terminate discussions at any time and for any reason.

The County will have a period up to sixty (60) days, unless otherwise stated, to decide which proposal best meets the criteria outlined in the Request for Proposals. The County reserves the right to award contracts to one or multiple companies.

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New Hanover County reserves the right to waive any minor informalities or irregularities, which do not go to the heart of the proposal or prejudice other offers, or to reject, for good and compelling reasons, any and all proposals submitted. Conditional proposals, or those which take exception to the Request for Proposals, will be considered non-responsive and will be rejected. All addenda to this information package will be posted online at <http://www.nhcgov.com/business-nhc/bids> or at the [State of North Carolina Interactive Purchasing System site](#).

Should a Service Provider find discrepancies or omissions in this RFP or any other documents provided by New Hanover County, the Service Provider should immediately notify the County of such potential discrepancy in writing via email as noted above, and a written addendum will be made available, via the Internet, if the County determines clarification necessary.

Service Providers are encouraged to make a good faith effort to include environmental considerations supporting waste reduction, recycling and buy-recycled products supporting markets for recycled and other environmentally preferable products whenever practical. New Hanover has an equal opportunity purchasing policy.

The County seeks to ensure that all segments of the business community have access to supplying the goods and services needed by County programs. The County affirmatively works to encourage utilization of minority business enterprise in our procurement activities and provides equal opportunity for all businesses and does not discriminate against any Service Provider regardless of race, color, religion, age, sex, and national origin or disability.

The Service Provider shall comply with the County's purchasing policy. New Hanover reserves the right to reject any and/or all proposals in connection with this project, and to waive formalities in a proposal.

Federal Requirements and Special Conditions for Operations and Management Contracts will be followed for grants provided under programs of the Federal Transit Act. A copy of the document can be assessed by clicking on the link:

<https://connect.ncdot.gov/business/Transit/Documents/Operations%20&%20Management%20Contract.doc>.

Final award of contract is contingent upon availability of funds from Federal, State and/or local governing bodies.

**A. Scope**

Service Provider will provide Non-Emergency Transportation Services to Medicaid approved adults, children, seniors (60 and older), veterans, and persons with disabilities. DSS and Senior Resource Center will determine eligibility for those passengers needing transportation. These services will be accomplished by working in close relationship with DSS and Senior Resource Center and any other Federal, State and/or local governing agencies providing funding and other resources for this service.

Non-Emergency Transportation Services are provided on a demand response and standing order basis. Most of all trips are provided within New Hanover. On occasion, trips for DSS eligible passengers are provided for appointments outside New Hanover County. DSS and Senior Resource Center coordinates all non-emergency transportation services for eligible passengers. Services are provided 24 hours per day/7 days per week, 365 days per year.

Passengers are assessed, approved and assigned to use the least costly and appropriate mode of transportation. The County provides no guarantee of any number of trips.

Proposals must comply with the Federal requirements found in 49 CFR Parts [27](#) and [609](#) (Non-discrimination on the Basis of Handicap in Federally Assisted Programs) and 49 CFR Parts [27](#), [37](#) and [38](#) (Transportation for Individuals with Disabilities). Failure to comply may result in criminal or civil sanctions and fines.

Services Provider can bid on both DSS and Senior Resource Center non-emergency transportation services or select one. It is important to note that DSS non-emergency requires the provider to establish a NC Tracks account following a contract award.

Please check the non-emergency services you are bidding

- Both DSS and Senior Resource Center
- DSS ONLY (requires NC Tracks)
- Senior Resource Center (SRC) ONLY

(the SRC approved non-emergency medical and general trips does not require use of NC Tracks)

**B. Term of Contract**

For purposes of this RFP and the Service Provider's Proposal, 2 separate contracts will be issued (DSS and SRC) and both contracts will assume an initial term of one (1) year, with the County having an option to renew for four (4) additional consecutive one (1) year terms thereafter unless earlier termination pursuant to the terms and conditions of the contract. Service Provider shall be available and ready to commence services immediately upon contract execution. Rates established will be effective July 1<sup>st</sup> of the current fiscal year.

**Annual Rates Adjustment:** Annual rates established will be effective July 1st of the current fiscal year. Contractor can request an annual rate adjustment by written request to the County by February 1st of the upcoming Fiscal Year to begin on July 1. The contractor's rate adjustment in contractual costs to the County shall not exceed the percentage rate computed based on the Annual Average Consumer Price Index

for All Urban Consumers (CPI- U): US City Average, by expenditure category, All Items. This report is listed by the US Department of Labor' s Bureau of Labor Statistics on its website [www.bls.gov](http://www.bls.gov) . The maximum potential percentage increase for renewal will be calculated using the annual amounts from the previous two calendar years.

**Mid-Year Price Adjustment Clause:** Annual rate adjustment request and calculations are described in the "Annual Rate Adjustment". However, in the event there are periods of extreme inflation escalation due to Acts of God or War Time, the County will allow the Contractor by written request and justification to consider a temporary increase or decrease in unit pricing after the established July 1<sup>st</sup> annual rate adjustment. Based on Contractor's written request and justification, the County may approve an increase in unit prices on Contractor and County's agreed rates consistent with the amount requested in the justification in an amount not to exceed the increase in the Consumer Price Index, Wilmington, NC Area, for All Urban Customers (CPI-U) as published by the Bureau of Labor Statistics that is above 8.0% of the average baseline CPI-U for three consecutive months in the current Fiscal Year. The baseline CPI-U shall be the Annual Average Consumer Price Index for All Urban Consumers, CPI-U, U.S. Average, by expenditure category from the previous two calendar years. If the CPI-U is below 8% of the baseline, then the unit prices shall not be adjusted (the unit prices will not be decreased). Any price adjustment request from July 1-April 1, must include a written justification request to the County, must include a description of the basis for the adjustment, the proposed effective date and reasons for said date, and the amount of the adjustment requested with documentation to support the requested change (e.g. CPI-U 8.0% increase for 3 consecutive months). If County approves a price adjustment after the July 1<sup>st</sup> established rates based on the mid-year price adjustment conditions and the CPI-U falls below 8% of the baseline for three conservative months, the annual rate adjustment established in the contact will revert back to the July 1 rates.

**Section 4 Proposal Format and Provider Response**

Address each section providing as much detail as possible. Provide documents, manuals, procedures, processes applicable to each section.

Responses to this RFP must correlate with the alphanumeric characters in order. List the letter, numeral, brief numeral descriptor and the response. Provide all type written responses in size 12 font. Each item in the RFP must be addressed in the proposal.

**A. Letter of Transmittal**

The Proposal must include a letter of transmittal attesting to its accuracy, signed by an individual authorized to execute binding legal documents on behalf of the Service Provider.

1. The letter shall present the Service Provider's understanding of the RFP.
2. Provide the name, email, physical and mailing address, telephone and facsimile numbers for the Service Provider and Executive that has authority to contract.
3. Each Service Provider shall make the following representations and warranty in the letter, the falsity of which will result in rejection of its proposal:
  - a. "The information contained in this proposal or any part thereof, including any exhibits, schedules, and other documents and instruments delivered or to be delivered to New Hanover County, are true, accurate, and complete. This proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead New Hanover County as to any material facts."

**B. Minimum Requirements**

1. Service Provider shall procure all necessary permits and licenses and abide by all applicable laws, regulations and ordinances of all Federal, State, and local governments in which work under any resulting contract is performed. These minimum requirements must be met prior to award of contract if your company is selected.
2. The following requirements must be met and documents are to be included with the proposal, before your company's qualifications will be considered:
  - a. Evidence of Adequate Insurance, a Certificate of Insurance or letter from your insurance carrier:

**Insurance Requirements for Taxi Transportation Services**

The requirements listed below are the <b>GENERALLY ACCEPTED</b> insurance requirements for this class of business.		
Insurance Description	Minimum Limits of Insurance Required <i>**Subject to change depending on size/location/description of work**</i>	
Commercial General Liability**	\$1mil Ea. Occurrence; \$1mil Products/Completed Operations; General Aggregate Limit shall apply separately to this project/location or the general aggregate limit shall be twice the required limit.	
Business Auto Liability	\$500,000 Bodily Injury (Per Person); \$500,000 Bodily Injury (Per Accident); \$500,000 Property Damage (Per Accident; Any Auto including Hired & Non-owned Liability; \$2K Medical Payments Coverage	
Worker's Compensation Employer's Liability	Statutory Limits	This policy must include a Waiver of Subrogation.
	\$100,000/\$100,000/\$500,000	
Additional Insured CG 20 26	<b>**</b> New Hanover County ( <i>not the department</i> ), its officers, officials, agents and employees	



**Insurance Requirements for Medical, General and Work First Transportation Services (Seating Capacity less than 15 Passenger)**

The requirements listed below are the <b>GENERALLY ACCEPTED</b> insurance requirements for this class of business.		
Insurance Description	Minimum Limits of Insurance Required <i>**Subject to change depending on size/location/description of work**</i>	
Commercial General Liability**	\$1mil Ea. Occurrence; \$1mil Products/Completed Operations; General Aggregate Limit shall apply separately to this project/location or the general aggregate limit shall be twice the required limit.	
Business Auto Liability	\$1,500,000 Bodily Injury (Per Person); \$1,500,000 Bodily Injury (Per Accident); \$1,500,000 Property Damage (Per Accident; Any Auto including Hired & Non-owned Liability; \$2K Medical Payments Coverage	
Worker's Compensation Employer's Liability	Statutory Limits	This policy must include a Waiver of Subrogation.
	\$1,000,000/\$1,000,000/\$1,000,000	
Additional Insured CG 20 26	<b>**</b> New Hanover County ( <i>not the department</i> ), its officers, officials, agents and employees	

- b. Secretary of State Certificate of Authority if Service Provider out of state.
- c. Articles of Incorporation, if applicable.
- d. Passenger Vehicle for Hire Company Operating Permit
- e. For any proposal to be considered responsive, provide an affidavit attesting that the company is in compliance with the E-Verify provisions of Article 2 of Chapter 64 of the North Carolina General Statutes and shall ensure that any subcontractors used by Service Provider on this County Project will also comply with the E-Verify provisions.  
Complete and submit the [E-Verify](#) form.
- f. Complete and submit the [Overdue Tax Letter](#) form.
- g. Complete and submit the [Federal Certifications](#) form.
- h. Complete and submit the State Certifications form.
- i. Complete and submit the Non-Discrimination, Clear Air Act, Clean Water Act form.
- j. Audited Financial Statement is required for the last period audited. Service Providers with total revenue, from all sources, **of more than one hundred thousand dollars (\$100,000) in annual funding are REQUIRED** to submit an annual Audited Financial Statement (AFS) prepared by a Certified Public Accountant. The AFS must include the following:
  - i) Balance Sheet, Statement of Financial Position or Statement of Assets, Liabilities and Owner's Equity
  - ii) Statement of Income or Statement of Revenues and Expenses.
  - iii) Statement of Cash Flows.
  - iv) iv) Independent Auditors' Opinion.
  - v) Notes to Financial Statements and Supplement Information.
  - vi) The Notes to the Financial Statements are required as they provide additional detail and further explanation of the financial statements.
  - vii) The AFS may also include additional information such as management discussion, analysis, schedules, and/or exhibits that provide further detail on line items included in the basic financial statements.
- k. Service Providers with total revenue, from all sources, **of less than one hundred thousand dollars (\$100,000) in annual funding are REQUIRED** to submit at a minimum an Annual Financial Compilation prepared by a Certified Public Accountant. An AFC refers to financial statements that include the following:
  - i) Balance Sheet, Statement of Financial Position or Statement of Assets, Liabilities and Owner's Equity.

- ii) Statement of Income or Statement of Revenues and Expenses.
- iii) Statement of Cash Flows.

**C. Financial Information**

Credit ratings and credit reports (bank and vendor references will be used to evaluate the credit worthiness of each company).

1. Provide three bank and/or vendor references; include contact name, email and mailing address and contact telephone number.
2. Indicate whether or not your company (and/or predecessor, guarantor or subcontractor) has declared bankruptcy within the last five (5) years.
3. Description of the financial impact of any past or pending legal proceedings and judgments that could materially affect the financial position or ability to provide Services to the County. This information will be reviewed and assessed in accordance with the information provided.
4. All credit reports, credit bulletins, and any other published statements by the most recognized agencies (Standard & Poor's Rating Group, Moody, Investor Services, Dun & Bradstreet, and Value Line) that have been issued or published about the entity within the past five (5) years.
5. Describe any organizational changes such as divestitures, acquisitions, or spin-offs business segments that have occurred in the last two (2) years or that are anticipated in the future.

**D. Company Information**

This section should highlight aspects of this proposal which make it superior or unique in addressing the needs of New Hanover County.

1. Submit an executive summary, outlining the proposal including the proposed general management philosophy.
2. Legal name of the company if doing business under some name other than that by which the company is commonly recognized and years in business.
3. Origin, state of incorporation, background, and current size.
4. Ownership structure of your company, including any significant or controlling equity holders.
5. Summary of the approach to be undertaken to perform Non-Emergency Transportation Services.
6. Detail information regarding the business segments of your company, showing the reporting structures within these segments and among these segments and the overall company.
7. Organizational changes such as divestitures, acquisitions, or spin-offs business segments that have occurred in the latest two (2) years or are anticipated in the future.
8. Central operations physical address, office location.

**E. Background and Experience**

1. Company's experience providing transportation services to persons with special needs.
2. Communications scheme that your company will use to keep the County informed about the Project.
3. Company name, contact name, email and mailing address, and contact telephone number for three (3) customers of comparable size and scope of service that your Company has been under contract with providing this service.
4. Comprehensive listing of prior and/or existing similar contracts you have had within last three (3) years.
5. Any risks associated with this contract and what contingencies have been built in to mitigate those risks. Include any plan for managing the risk of terrorism.
6. List the steps your company will take to ensure that the transition/implementation for the Project runs smoothly.

**F. Staffing/Organization**

1. Management organization chart of your overall company, showing director, officer positions and names and the reporting structure.
2. Provide a point of contact to communicate with the County regarding passenger transportation needs or complaints. Staffing and experience of the proposed project team, list responsibilities of the project team.
3. Job descriptions of all individuals who will be assigned to work with this project. Job descriptions should be specific to the project.
4. Criteria for recruiting, hiring and evaluating dispatch staff and drivers. Provide minimum qualifications, experience, and background checks required for each position used in the organization chart.
5. Approach to total quality management and total quality plan. Continuous improvement program and how your current customers benefit from your service improvements.
6. Experiences in adapting to changing technologies. Explain how your company ensures that personnel performing technical support services are qualified and proficient.
7. Approach, policies, and experience with respect to deployment of your personnel. Has your company been the subject of a dispute or strike by organized labor within the latest five (5) years? Describe the circumstances and the resolution of the dispute.
8. Quality assurance procedures, expectations and measurements.

**G. Customer Service**

1. Customer service philosophy and how it is communicated and reinforced throughout the company.
2. Handling Customer Complaints
3. Minimum standards on the following types of complaints:
  - a. Late drop off
  - b. Late pick up
  - c. Ride time
  - d. Driver no-show

**H. Employee Training**

1. Required trainings. Description of training provided, dates, and evaluation tools used.. Provide samples of materials used. Include trainings required and provided to any subcontractors.
2. Safety and security program, including accident and incident reporting. Provide data regarding accident frequency rates.
3. Anti-drug and alcohol misuse prevention and testing requirements.
4. Customer service training for all staff and drivers.
5. Wheelchair securement training.

**I. Operations**

1. Central Operations Site physical address.
2. Mobile Communications System listing equipment and procedures. What is the process from dispatcher to driver? What are after hour call procedures?
3. Current computer hardware and software (processors, internet connections, etc.)
4. Type of transportation services you can/will provide: ambulatory, non-ambulatory or both.
5. Geographic market currently served.
6. Quality assurance procedures, expectations and measurements. Submit data pertaining to on-time performance, customer complaints per passengers transported, miles between mechanical failures, accidents per miles driven.

7. Communication between the dispatcher and driver.
8. After hour call procedures.
9. System Safety Program Plan (SSPP) addressing the following six (6) core elements:
  - a. Driver/Employee Section
  - b. Driver/Employee Training
  - c. Safety Data Acquisition Analysis
  - d. Drug, Alcohol and Abuse Program
  - e. Vehicle Maintenance
  - f. Security
  - g. Blood Borne Pathogens Exposure and Control Plan

The SSP must align with the <https://connect.ncdot.gov/business/safety/Pages/SPP.aspx> and the State Management Plan.

**J. Fleet**

1. Proposed fleet vehicles, including back-up vehicles. (Year, Manufacturer, Model, etc.)
2. Vehicle ownership, lease
3. Vehicles meeting ADA requirements of accessibility
4. Vehicle seating capacity, each type
5. Restraints and safety equipment available
6. Paint and identification or decal scheme
7. Mobile data units for each vehicle. If no mobile data units, identify if your company is willing to incur the cost for purchase/installation.

**K. Preventive Maintenance**

1. Overall maintenance program for vehicles and equipment
2. Provide copies of forms used for maintaining vehicles
3. Vehicle cleaning standards

## Section 5      **Service Provider Responsibilities/Requirements**

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### **A.      Qualifications**

In order to respond to this RFP, Service Provider must have a minimum of three (3) years successful history of providing transportation services as defined in this RFP.

### **B.      Vehicles/Fleet**

Furnish vehicles to Ensure efficient and adequate service to New Hanover County passengers. Vehicles shall be compliant with specification in the Americans with Disabilities Act of 1990. All vehicles, labor, materials, supplies and equipment used in the transport of New Hanover County passengers must:

1. Comply with all applicable Federal, State and Local safety and mechanical standards/requirements which includes but is not limited to the [Federal Transit Administration](#) (FTA) and [North Carolina Division of Transportation](#) (NCDOT) regulations and policies.
2. Meet all City of Wilmington ordinances. Vehicles and Drivers must have a current permit at all times. Vehicle fleet age is not to exceed requirements.
3. Be equipped with a functioning two-way radio or other equipment capable of providing communication between the Service Provider's base radios and dispatch station and the vehicle at any and all times and from any locations within the service area.
4. Be clean, sanitary, and in safe operating conditions. Vehicle heating/air conditioner and seat belts must be operable at all times. Vehicles with inoperable heating/air conditioner or seat belts are not allowed to be used in service to transport New Hanover County passengers.
5. ONLY those vehicles scheduled and approved by New Hanover County will be used. Vehicle schedule must be maintained and kept current at all times. Any change in schedules must be approved by DSS and Senior Resource Center prior to the change occurring.
6. Contingency plan for vehicle breakdown must be in place to transport New Hanover County passengers in the event of a service disruption. Contingency plan may not include rental or leased vehicles as they are prohibited and may not be used to transport any New Hanover County passengers.
7. New Hanover County reserves the right to inspect Service Provider vehicles at any time and require removal of any given vehicle from service when deemed necessary because of maintenance or safety concerns.

### **C.      Employees - Drivers/Subcontractors**

Service Provider must be wholly responsible to ensure that the Drivers comply with all of the terms and conditions of the Contract. Service Provider must ensure that each Driver:

1. Employed or subcontracted must be at least 18 years of and have a valid appropriate North Carolina driver's license and a safe driving record with no DUI/DWI's in the past ten years. Employed or subcontracted must not have more than two chargeable accidents or moving violations in the past three years and must not have a driver's license suspension or revocation within in the past 5 years. All Drivers must have a satisfactory criminal background check. No driver with a history of violent behavior or sexual offenses will be allowed to transport New Hanover County passengers. Service Provider must submit schedule list of drivers to be used in the performance of the contract along with copy of each driver's permit, driver's license, and driver's driving records for three years prior to the date of response of this request for proposal. List of drivers must be maintained and kept current at all times. Any change in the drivers must be approved by DSS and Senior Resource Center prior to the change occurring.
2. Clean in appearance, clothing has visible driver and company name/logo identification. Polite and courteous to passengers. Smoking is not allowed inside the vehicles at any time.

3. Use the highest degree of care in the operation of equipment and when assisting passengers entering and exiting the vehicle.
4. Establish and implement anti-drug and alcohol misuse prevention program in accordance with the Federal Transit Administration Regulation [49CFR Part 655 and 40](#). Maintain and keep current Drug and Alcohol Training as well as any other training as required by New Hanover County.
5. Certify that the employee training conducted meets the requirements of 49CFR Part 655 and 40. Records of the drug and alcohol-testing program shall be made available to New Hanover County, Federal Transportation Administration, North Carolina Division of Transportation (NCDOT), and their representatives. Service Provider will be responsible for all costs for drug and alcohol testing
6. All drivers will be randomly tested for both drugs (10 panel test) and alcohol a minimum of one (1) time per year (a twelve-month period). Service Providers will be responsible for all costs.
7. In the event of an accident or allegation of driving while under the influence of an illegal substance, the driver must submit to a post-accident 10-panel drug and alcohol test at an approved facility within two (2) hours of the accident.
8. Documentation is required indicating that all new drivers have been tested and that current drivers have been randomly tested. In addition, current drug testing records must be available for audit review by New Hanover County.
9. NHC SRC will conduct subcontractor monitoring at a minimum annually on service providers per Division of Aging and Adult Services guidelines. <https://www.ncdohhs.gov/documents/daas-subcontractor-performance-evaluation-tools>

**D. Non-Emergency Transportation Service**

1. The maximum one-way ride time for any passenger shall not exceed sixty (60) minutes from the time the passenger boards or enters the vehicle except as required due to distance for Out of County travel. In the event of tie-ups or other unavoidable delays, DSS and /or Senior Resource Center must be contacted.
2. Properly utilize his/her seat belt while driving/riding. Must comply with child safety provisions as noted in [\(NC Child Passenger Safety Law - G.S. 20-137.1\)](#). The number of passengers in a vehicle shall not exceed the number of seat belts in the vehicle.
3. Passenger must meet appointment times. Arrival times must be within scheduled appointment times and pick up for outbound trip will not exceed 45 minutes of the call requesting the outbound trip.
4. [Service Provider is responsible for any doctor office late charges that the passenger occurs due to a trip arriving after the passenger's scheduled appointment time.](#)
5. With the exception of training other drivers, no other fares are allowed while transporting New Hanover County passengers.
6. Allow approved attendants to ride with and assist authorized passengers at no charge to New Hanover County. Individuals shall not be transported to other destinations without the expressed consent and authorization of New Hanover County.
7. Only successful authorized trips will be reimbursed. The passenger name, origin/destination address and date must be accurate on the invoice for reimbursement.
8. Invoices and signed ride slips must be received by the 5<sup>th</sup> of the month.

**E. COMMUNICATION**

1. The point of contact must be available at any time, including nights, weekends, and holidays. All complaints received against the Service Provider will be investigated by DSS and/or Senior Resource Center.
2. Service Provider must respond to all complaints in a format and within timeframe specified. Valid complaints as determined by the County may be assessed liquidated damages.
3. Any and all accidents and/or incidents, including traffic violations or citations received while transporting New Hanover County passengers must be reported within 15 minutes of the occurrence by phone with accident/incident form to follow within 24 hours of the accident and/or incident.

4. Any driver for the Service Provider who is charged with a serious traffic violation or criminal act shall be removed from service for the County pending the outcome of a joint investigation by the Service Provider and the County.

**F. RECORD KEEPING**

Maintain electronic records to document that service has been provided.

**Section 6            Criteria for Evaluation**

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Proposals will be evaluated by an evaluation team based on the Service Provider's ability to meet the performance requirements of this RFP. Failure to submit information requested may result in the elimination of the proposal from further evaluation. Proposals will be assessed to determine the most comprehensive, competitive and best value solution for NEW HANOVER COUNTY based on, but not limited to, the criteria below. NEW HANOVER COUNTY reserves the right to modify the evaluation criteria or waive portions thereof.

	<b>Criteria</b>	<b>Weight</b>
1.	Experience and qualification of the company: <ul style="list-style-type: none"><li>• Financial strength</li><li>• Paratransit experience</li><li>• Experience of local / regional support staff</li><li>• Support services rendered</li></ul>	25
2.	Experience and qualities of the proposed contract management team	20
3.	Contractors proposed programs and staffing plan	20
4.	Price	25
5.	Fleet size and number of wheelchair accessible vehicles	10



## Section 7      **Bid Protest Procedures**

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As a custodian of public funds, the County must adhere to applicable bidding practices established by State law, County policy, and good administrative practice. Bids may be protested for any bid solicited. All protests must be in the writing and must be delivered to the Finance Director prior to award by the Board of Commissioners or issuance of purchase order.

The protester (bidder) shall adhere to the following procedures:

1. The protester (bidder) who protests a bid will deliver a written statement to the Finance Director detailing the reason for the protest within five (5) business days or prior to award and/or issuance of a purchase order whichever is later.
2. The Finance Director will review the data submitted and provide a formal response to the protester (bidder) within five (5) business days after receipt of the written protest.
3. A protester (bidder) not satisfied with that response may appeal the decision to the County Manager, provided such appeal is received within five (5) business days after the response from the Finance Director. If an appeal is not filed within the specified period, no other County redress is available.
4. No further appeal is available as of right; provided, however, the dis-satisfied protester (bidder) may request that the Board of Commissioners elect to hear an appeal from the decision of the County Manager. The decision rendered by the Board of Commissioners is final.
5. Any and all cost incurred by a protesting party in connection with a protest shall be the sole responsibility of the protesting party.

1. **General**

The work performed under this contract will be financed, in part, by grants provided under programs of the Federal Transit Administration. Citations to federal law, regulation, and guidance references include, but are not limited to, the Master Agreement, FTA MA (23), dated October 1, 2016; FTA Circular 4220.1F, dated November 1, 2008; "Best Practices Procurement & Lessons Learned Manual", October 2016; Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, dated December 26, 2014, will supersede and apply in lieu of U.S. DOT's common grant rules, 49 C.F.R. parts 18 and 19, State and Local Governments and Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and any subsequent amendments or revisions thereto.

**THE FOLLOWING MAY BE USED SYNONYMOUSLY:**

**"BIDDER" AND "CONTRACTOR"**

**"PURCHASER", "PROCURING AGENCY" AND "OWNER"**

2. **Federal Changes**

Contractor shall at all times comply with all applicable Federal Transit Administration (FTA) regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser 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.

1. FTA's new authorizing legislation, 49 U.S.C. chapter 53, as amended, by the following:
  - a. The Fixing America's Surface Transportation (FAST) Act, Public Law No. 114-94, December 4, 2015,
  - b. The Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21), Public Law No. 112-141, July 6, 2012, as amended by the "Surface Transportation and Veterans Health Care Choice Improvement Act of 2015," Public Law No. 114-41, July 31, 2015, and other authorizing legislation to be enacted and
  - c. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Public Law No. 109-59, August 10, 2005, as amended by the SAFETEA-LU technical Corrections Act of 2008, Public Law No 100-244, June 6, 2008.
2. Continuing resolutions or other Appropriations Resolutions or Acts funding the Department of Transportation during Fiscal Year 2016.
3. Title 23, U.S.C. (Highways)
4. Other federal legislation FTA administers, as FTA so determines.

3. **Notification of Federal Participation**

To the extent required by Federal law, the State of North Carolina agrees that, in administering any Federal assistance Program or Project supported by the underlying Grant Agreement or Cooperative Agreement, any request for proposals, solicitation, grant application, form, notification, press release, or other publication involving the distribution of FTA assistance for the Program or the Project that it will identify the FTA grant source by listing the Catalog of Federal Domestic Assistance Number of the program. The following FTA grant programs will be eligible to participate in this bid, 20.500, 20.505, 20.507, 20.509,

20.513, 20.514, 20.516, 20.518, 20.519, 20.521, 20.522, 20.523, 20.525, 20.526, 20.527, 20.528, 20.529, 20.530, and 20.531. Federal funding assistance up to eighty (80%) percent may be provided.

#### 4. Definitions

*Third Party Agreement*, in accordance with the Master Agreement unless FTA determines otherwise in writing, includes all of the following agreements, such as:

- (1) Third party contracts,
- (2) Leases,
- (3) Third party subcontracts; and
- (4) Other similar arrangements or agreements.

*Third Party Participant*, in accordance with the Master Agreement unless FTA determines otherwise in writing, includes all of the following participants, such as:

- (1) Third party contractors,
- (2) Lessees,
- (3) Third party subcontractors, and
- (4) Other participants in the Project

#### 5. Conflict of Interest

No employee, officer, board member, or agent of the Owner shall participate in the selection, award, or administration of a contract supported by Federal Transit Administration (FTA) funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer, board member, or agent, any member of his or her immediate family, his or her partner, or an organization that employs, or is about to employ any of the above, has a financial or other interest in the firm selected for award.

#### 6. Lobbying

Byrd Anti-Lobbying Amendment, 31 U.S.C. §1352(b) (5), as amended by the Lobbying Disclosure Act of 1995, PL 104-65 (2 U.S.C. §1601, et seq.); 2 C.F.R. §200.450, and 2 C.F.R. Part 200 appendix II (j). Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "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 U.S. C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

***The requisite "Lobbying Certification" is included as ATTACHMENT A (attach Standard Form-LLL if necessary) and must be executed for contracts of \$100,000 or more and prior to the award of the contract.***

#### 7. Civil Rights Laws and Regulations

The following Federal Civil Right laws and regulations apply to all contracts and flow down to all third party contractors and their contracts at every tier.

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex (including gender identity), disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(a) The third party contractor and all lower tiers shall comply with all provisions of FTA Circular 4702.1 "Title VI Requirements and Guidelines for Federal Transit Administration Recipients", issued October 1, 2012.

(2) **Equal Employment Opportunity** - Federal Equal Employment Opportunity (EEO) Requirements include, but are not limited to:

(a) Race, Color, Religion, National Origin, Disability, Age, Sexual Origin, Gender Identity, or Status as a Parent - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, Title VI of the Civil Rights Act, 28 C.F.R. § 50.3, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and as further amended by Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," July 21, 2014, and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction 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, religion, national origin, sex (including gender identity), disability, 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. The Contractor agrees to comply with FTA Circular 4704.1A Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients, dated October 31, 2016.

(b) Equal Employment Opportunity Requirements for Construction Activities. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(3) **Nondiscrimination on the Basis of Age** – The Contractor agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 et seq., and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance, 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age.

The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing

U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, which prohibits discrimination against individuals on the basis of age.

(4) **Nondiscrimination on the Basis of Sex** - The Contractor agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, that prohibit discrimination on the basis of sex.

(5) **Access for Individuals with Disabilities** - The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities. In addition, the Contractor agrees to comply with applicable Federal regulations and directives and any subsequent amendments thereto, except to the extent the Federal Government determines otherwise in writing, as follows:

- (1) U.S. DOT regulations "Transportation Services for Individuals with Disabilities (ADA)" 49 C.F.R. Part 37;
- (2) U.S. DOT regulations "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F. R. Part 38;
- (4) U.S. DOJ regulations "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities." 28 C.F.R. Part 36;
- (6) U.S. GSA regulations "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 49 C.F.R. Part 64, Subpart F;

- (9) U.S. Architectural and Transportation Barriers Compliance Board regulations, "Electronic and Information Technology Accessibility Standards." 36 C.F.R. Part 1194;
- (10) FTA regulations, "Transportation of Elderly and Handicapped Persons," 49 C.F.R. part 609; and
- (11) Federal regulations, "Miscellaneous Civil Rights Amendments (RRR)," pertaining to nondiscrimination on the basis of disability within 49 C.F.R. Parts 27, 37, and 38 were published in 79 Fed. Reg. 21402, April 16, 2014; and
- (12) FTA Circular 4701.1, Americans with Disabilities Act (ADA) Guidance, dated November 4, 2015.
- (13) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

(6) **Access to Services for Persons with Limited English Proficiency.** The Contractor agrees to comply with Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005, except to the extent that the Federal Government determines otherwise in writing.

(7) **Environmental Justice.** (According to the Master Agreement, this section is now under Environmental and applicable for Environmental Studies)

(8) **Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections.** To the extent applicable, the Contractor agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and with the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

(9) **Other Nondiscrimination Laws.** The Contractor agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable directives prohibiting discrimination, except to the extent that the Federal Government determines otherwise in writing.

(10) 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.

(11) Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

## **8. Contracting with Disadvantaged Business Enterprises**

The newest version on the Department of Transportation's Disadvantaged Business Enterprise (DBE) Program became effective October 1, 2004.

a. This contract is subject to the requirements of U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26 [U.S. DOT published final rule, "Disadvantaged Business Enterprise: Program Improvements," 49 C.F.R. Part 26, on January 28, 2011 (see 76 Fed. Reg. 5083)], and Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, as amended by Section 451 of the Hiring Incentives to Restore Employment (HIRE) Act, Pub. L. 111-147, March

18, 2010, 23 U.S.C. § 101 note.

The NC Department of Transportation/Public Transportation Division's overall goal for DBE participation is **6.1%**.

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

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

c. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the Procuring Agency. In addition, these may apply:

- **the contractor may not hold retainage from its subcontractors; or**
- **is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed; or**
- **is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the Procuring Agency and contractor's receipt of the partial retainage payment related to the subcontractor's work.**

d. The contractor must promptly notify the **Procuring Agency** 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 the **Procuring Agency**.

## **9. Clean Air Act and Federal Water Pollution Control Act**

The Clean Air and Clean Water Act requirements apply to each contract and subcontract exceeding \$150,000. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387) and 2 C.F.R. Part 200, Appendix II (g). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal Assistance provided by FTA.

The Contractor agrees:

- 1) It will not use any violating facilities;
- 2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
- 3) It will report violations of use of prohibited facilities to FTA; and

4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387) and 2 C.F.R. Part 200, Appendix II (g).

## 11. **Environmental Protection**

The Contractor agrees to comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, (NEPA) 42 U.S.C. §§ 4321 through 4335 (as restricted by 42 U.S. C. § 5159, if applicable); Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; FTA statutory requirements at 49 U.S.C. § 5323(c)(2) ), as amended by MAP-21, ; U.S. Council on Environmental Quality regulations pertaining to compliance with NEPA, 40 C.F.R. Parts 1500 through 1508; and joint FHWA FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622; were published in the Federal Register, 78 Fed. Reg. 8963, February 7, 2013; and other applicable Federal environmental protection regulations that may be promulgated at a later date. The Contractor agrees to comply with the applicable provisions of 23 U.S.C. § 139 "Efficient environmental reviews for project decision making", pertaining to environmental procedures, and 23 U.S.C. § 326, pertaining to Purchaser's responsibility for categorical exclusions, in accordance with the provisions of joint FHWA/FTA final guidance, "Environmental Review Process (Public Law 109-59)," 71 Fed. Reg. 66576 *et seq.* November 15, 2006. Joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319 Accelerated Decisionmaking in Environmental Reviews," dated January 14, 2013, and any applicable Federal directives that may be issued at a later date, except to the extent that FTA determines otherwise in writing.

## 12. **Recycled Products**

The Recycled Products requirement applies to all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds. New requirements for "recovered materials" will become effective May 1, 1996. These regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000. These requirements extend to all contractors and their subcontracts at every tier where the value of an EPA designated item exceeds \$10,000.

To the extent possible the contractor agrees to comply with U. S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guidelines for Products Containing Recovered Materials," 40 CFR Part 247, which implements section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. 6962 and 2 C.F.R. part § 200.322. The contractor agrees to provide competitive preference for products and services that conserve natural resources, protect the environment and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

These items include, but may not be limited to:

***Paper and paper products***, excluding building and construction paper grades.

### ***Vehicular products:***

- (a) Lubricating oils containing re-refined oil, including engine lubricating oils, hydraulic fluids, and gear oils, excluding marine and aviation oils.
- (b) Tires, excluding airplane tires.
- (c) Reclaimed engine coolants, excluding coolants used in non- vehicular applications.
- (d) Rebuilt vehicular parts.



***Transportation products:***

- (a) Traffic barricades and traffic cones used in controlling or restricting vehicular traffic.
- (b) Parking stops made from concrete or containing recovered plastic or rubber.
- (c) Channelizers containing recovered plastic or rubber.
- (d) Delineators containing recovered plastic, rubber, or steel.
- (e) Flexible delineators containing recovered plastic.

***Miscellaneous products:***

- (a) Pallets containing recovered wood, plastic, or paperboard.
- (b) Sorbents containing recovered materials for use in oil and solvent clean-ups and as animal bedding.
- (c) Industrial drums containing recovered steel, plastic, or paper.
- (d) Awards and plaques containing recovered glass, wood, paper, or plastic.
- (e) Mats containing recovered rubber and/or plastic.
- (f) (1) Non-road signs containing recovered plastic or aluminum and road signs containing recovered aluminum.  
(2) Sign supports and posts containing recovered plastic or steel.
- (g) Manual-grade strapping containing recovered steel or plastic.
- (h) Bike racks containing recovered steel or plastic.
- (i) Blasting grit containing recovered steel, coal and metal slag, bottom ash, glass, plastic, fused alumina oxide, or walnut shells.

***Park and recreation products:***

- (a) Playground surfaces and running tracks containing recovered rubber or plastic.
- (b) Plastic fencing containing recovered plastic for use in controlling snow or sand drifting and as a warning/safety barrier in construction or other applications.
- (c) Park benches and picnic tables containing recovered steel, aluminum, plastic, or concrete.
- (d) Playground equipment containing recovered plastic, steel, or aluminum.

***Landscaping products:***

- (a) Hydraulic mulch products containing recovered paper or recovered wood used for hydroseeding and as an over-spray for straw mulch in landscaping, erosion control, and soil reclamation.
- (b) Compost made from yard trimmings, leaves, grass clippings, and/ or food waste for use in landscaping, seeding of grass or other plants on roadsides and embankments, as a nutritious mulch under trees and shrubs, and in erosion control and soil reclamation.
- (c) Garden and soaker hoses containing recovered plastic or rubber.
- (d) Lawn and garden edging containing recovered plastic or rubber.
- (e) Plastic lumber landscaping timbers and posts containing recovered materials.

***Non-paper office products:***

- (a) Office recycling containers and office waste receptacles.
- (b) Plastic desktop accessories.
- (c) Toner cartridges.
- (d) Plastic-covered binders containing recovered plastic; chipboard and pressboard binders containing recovered paper; and solid plastic binders containing recovered plastic.
- (e) Plastic trash bags.
- (f) Printer ribbons.
- (g) Plastic envelopes.
- (h) Plastic clipboards containing recovered plastic.
- (i) Plastic file folders containing recovered plastic.
- (j) Plastic clip portfolios containing recovered plastic.
- (k) Plastic presentation folders containing recovered plastic.
- (l) Office furniture containing recovered steel, aluminum, wood, agricultural fiber, or plastic.

13. **Buy America**

**If the Contractor is purchasing vehicles as part of the operations or service agreement, the vehicles must meet the Buy America requirement.**

FTA's Buy America law and regulations apply to projects that involve the purchase of more than \$150,000 of iron, steel, manufactured goods, or rolling stock to be delivered to the recipient to be used in an FTA assisted project. The Buy America regulation at 49 C.F.R. § 661.13 requires notification of the Buy America requirements in a Procuring Agency bid or request for proposal for FTA funded contracts.

The contractor agrees to comply with 49 U.S.C. 5323(j), 49 C.F.R. part 661, and the FAST Act Section 3011, effective date October 1, 2015, which provide that Federal funds may not be obligated unless all 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 C.F.R. § 661.7. Appendix A grants a general public interest waiver from the Buy America requirements that apply to microprocessors, computers, microcomputers, or software, or other such devices, which are used solely for the purpose of processing or storing data. This general waiver does not extend to a product or device which merely contains a microprocessor or microcomputer and is not used solely for the purpose of processing or storing data.

Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j) (2) (C) and 49 C.F.R. § 661.11. Train Control, Communication and Traction Power Equipment. For purposes of Buy America, rolling stock includes train control, communication, and traction power equipment (49 U.S.C. 5323(j) (2) (C)). See also 49 CFR 661.11(t), (u), and (v). The domestic content requirement in effect on the date a contract was signed for train control, communication, and traction power equipment will control. If the contract is signed in FY2016 or FY2017, the contract shall require an overall domestic content that exceeds 60 percent; if a contract is signed in FYs 2018 or 2019, the contract must include an overall domestic content percentage that exceeds 65 percent; and if a contract is signed in FY2020 or beyond, the domestic content must exceed 70 percent.

For purchase orders placed against State schedules on or after October 1, 2015, for rolling stock that will be delivered in FY 2016 or 2017, the domestic content requirement must exceed 60%. For purchase orders placed against State schedules for rolling stock that will be delivered in FYs 2018 or 2019, the domestic content must exceed 65%, and

for purchase orders placed against State schedules for rolling stock that will be delivered in FY 2020 or beyond, the domestic content must exceed 70%.

The bidder or offeror must submit to the Procuring Agency the appropriate Buy America certification in the bid or offer. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

The Buy America requirements flow down from FTA to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

**Effective October 1, 2015 small purchases (under the \$150,000 threshold) made with FTA funds, will not be subject to the Buy America requirement. The value of small purchases should be determined by using the "contract price" and not "unit price".** This provision of the FAST Act applies to all purchases for capital, operating, or planning funds.

***BIDS OR OFFERS THAT ARE SUBMITTED WITHOUT THE COMPLETED BUY AMERICA CERTIFICATION MUST BE REJECTED AS NONRESPONSIVE. BIDDERS ARE ADVISED THAT SUBMISSION OF BOTH CERTIFICATIONS***

**WITH THE BID IS ALSO CONSIDERED NONRESPONSIVE AND WILL RESULT IN REJECTION OF THE BID; ONLY ONE CERTIFICATION (either C or D) SHALL BE SUBMITTED.** The certification requirement does not apply to lower tier subcontractors.

**14. Pre-Award and Post-Delivery Audits of Rolling Stock Purchases**

**If the Contractor is purchasing vehicles as part of the operations or service agreement, the vehicles must meet the requirements of the Pre-Award and Post-Delivery Audits for Rolling Stock.**

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.

Pre-Award Audit:

Pre-award information may also be submitted with the bid.

(1) Buy America Requirements: (for contracts of \$150,000 and more)

The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America (see Section 13. Buy America). If the Contractor certifies compliance with Buy America, it shall provide supporting documentation that indicates that the applicable\* cost of all components are manufactured in the United States and that final assembly takes place in the United States. The documentation shall include:

- a) the component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs;
- 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 the final assembly; and
- c) a copy of the letter from FTA granting a waiver on the vehicle(s) for all or part of the Buy America requirement under section 165(b)(1), (b)(2), or (b)(4) of the Surface Transportation Assistance Act (STAA) of 1982, as amended;

*\*For rolling stock that will be delivered in FY 2016 or 2017, the domestic content requirement must exceed 60%. For rolling stock that will be delivered in FYs 2018 or 2019, the domestic content must exceed 65%, and for rolling stock that will be delivered in FY 2020 or beyond, the domestic content must exceed 70%.*

(2) Federal Motor Vehicle Safety Standards (FMVSS) Certification: (must be completed for all purchases)

The Contractor shall submit:

- a) the manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS regulations; or
- b) the manufacturer's certified statement that the contracted vehicles will not be subject to the FMVSS regulations.

(3) Solicitation Specification Requirements:

The Contractor shall submit evidence that it will be capable of meeting the bid specifications.

Post-Delivery Audit:

Upon completion of the vehicle(s), and prior to filing of the title, the successful bidder shall provide the information indicated in 1-3 above. This post-delivery audit is required to ensure that the vehicle(s) were manufactured as intended. Failure to comply with this requirement or inability to certify Buy America compliance shall be cause for rejection of the vehicle(s).

Upon delivery and acceptance of the equipment, the vehicle(s) shall undergo a thorough visual inspection and road test to assure compliance to contract specifications.

**15. Fly America**

The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. First tier contractors who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

a) *Definitions.* As used in this clause--

- “International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.
- “United States” means the 50 States, the District of Columbia, and outlying areas.
- “U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services..

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

**Statement of Unavailability of U.S.-Flag Air Carriers**

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. *[State reasons]:*

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- e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

**16. Debarment, Suspension, Ineligibility, and Voluntary Exclusion**

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180, 2 C.F.R. § 200.213, and 2 C.F.R. Part 200 Appendix II (I). These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

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

A contract award (of any tier) in an amount expected to equal or exceed \$25,000 or a contract award at any tier for a federally required audit (irrespective of the contract amount) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), at <https://www.sam.gov/> in accordance with the OMB guidelines at 2 C.F.R. part 180 that implement Executive Orders 12549 and 12689. The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

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

The Procuring Agency will be reviewing all third party contractors under the “System for Award Management” at <https://www.sam.gov/> before entering into any contracts.

If the Procuring Agency or NCDOT suspends, debars, or takes similar action against a Contractor or subcontractor, the NCDOT will provide immediate written notice to the:

- (a) FTA Regional Counsel for the Region in which the NCDOT is located or implements the Project,
- (b) FTA Headquarters Manager that administers the Grant, or
- (c) FTA Chief Counsel, and
- (d) NCDOT/Public Transportation Division.

***The requisite Debarment and Suspension Certification is included as ATTACHMENT B (attach additional statement if necessary) and must be executed for contracts of \$25,000 or more and prior to the award of the contract.***

## 17. Termination or Cancellation of Contract

For all contracts in excess of \$10,000, the Termination clause extends to all third party contractors and their contracts at every tier and their subcontracts at every tier, as referenced in 2 C.F.R. § 200.339 and 2 C.F.R. Part 200, Appendix II (B).

**Termination for Convenience** - The Owner may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Owner's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Owner to be paid the Contractor. If the Contractor has any property in its possession belonging to Owner, the Contractor will account for the same, and dispose of it in the manner the Owner directs.

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

If it is later determined by the Owner that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Owner, 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** - The Owner, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] 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 Owner's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Owner setting forth the nature of said breach or default, Owner shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Owner 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 Owner elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Owner shall not limit Owner's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

**Termination for Default (Construction)** - If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, the Owner may terminate this contract for default. The Owner shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Owner may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Owner resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's

right to proceed with the work is terminated. This liability includes any increased costs incurred by the Owner in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Owner, acts of another contractor in the performance of a contract with Owner, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The Contractor, within [10] days from the beginning of any delay, notifies Owner in writing of the causes of delay. If, in the judgment of Owner, the delay is excusable, the time for completing the work shall be extended. The judgment of Owner shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Owner.

## **18. Violation and Breach of Contract, Rights and Remedies**

All contracts in excess of \$150,000 shall contain administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate as provided in 2 C.F.R. § 200.326 and 2 C.F.R. part 200, Appendix II (A). The Violations and Breach of Contracts clause flow down to all third party contractors and their contracts at every tier.

**Rights and Remedies of the Owner** - The Owner shall have the following rights in the event that the Owner deems the Contractor guilty of a breach of any term under the Contract.

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

For purposes of this Contract, breach shall include the Contractor and any subsequent named subcontractor.

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

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

If there is credible evidence that a Third Party Participant (Contractor) has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, or has committed a criminal or civil violation of law pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving Federal funding, notification of FTA is required.

If a legal matter as described above emerges, the Owner must promptly notify the NCDOT, which in turn will notify the U.S. DOT Inspector General, in addition to the FTA Chief Counsel or FTA Regional Counsel for the Region in which the Project is located.

All contracts in excess of \$150,000 shall contain administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate as provided in 2 C.F.R. § 200.326 and 2 C.F.R. part 200, Appendix II (A). The Violations and Breach of Contracts clause flow down to all third party contractors and their contracts at every tier.

**Rights and Remedies of the Owner** - The Owner shall have the following rights in the event that the Owner deems the Contractor guilty of a breach of any term under the Contract.

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

For purposes of this Contract, breach shall include the Contractor and any subsequent named subcontractor.

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

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

If there is credible evidence that a Third Party Participant (Contractor) has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, or has committed a criminal or civil violation of law pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving Federal funding, notification of FTA is required.

If a legal matter as described above emerges, the Owner must promptly notify the NCDOT, which in turn will notify the U.S. DOT Inspector General, in addition to the FTA Chief Counsel or FTA Regional Counsel for the Region in which the Project is located.



## 19. Resolution of Disputes

All contracts in excess of \$150,000 shall contain contractual dispute and remedies as appropriate as provided in 2 C.F.R. § 200.326 and 2 C.F.R. part 200, Appendix II (A). The Violations and Breach of Contracts clause flow down to all third party contractors and their contracts at every tier.

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the Owner. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the authorized representative of the Owner. 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 authorized representative of the Owner shall be binding upon the Contractor and the Contractor shall abide by the decision.

Alternative Dispute Resolution – The Owner and the Contractor intend to resolve all disputes under this Agreement to the best of their abilities in an informal manner. To accomplish this end, the parties will use an Alternative Dispute Resolution process to resolve disputes in a manner designed to avoid litigation. In general, the parties contemplate that the Alternative Dispute Resolution process will include, at a minimum, an attempt to resolve disputes through communications between their staffs, and, if resolution is not reached at that level, a procedure for review and action on such disputes by appropriate management level officials within the Owner and the Contractor’s organization.

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

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

Performance during Dispute - Unless otherwise directed by the Owner, the Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

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

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

**20. Protest Procedures**

To ensure that protests are received and processed effectively the Owner shall provide written bid protest procedures upon request. In all instances information regarding the protest shall be disclosed to the N.C. Department of Transportation (NCDOT). All protest requests and decisions must be in writing. A protester must exhaust all administrative remedies with the Owner before pursuing remedies through the NCDOT. Reviews of protests by the NCDOT will be limited to the Owner's failure to have or follow its protest procedures, or its failure to review a complaint or protest. An appeal to the NCDOT must be received by the Department within three (3) working days of the date the protester knew or should have known of the violation.

The protester must deliver its appeal to the FTA Regional Administrator for the region administering its project or the FTA Associate Administrator for the program office administering its project within five (5) working days of the date when the protester has received actual or constructive notice of NCDOT's final decision. Likewise, the protester must provide its appeal to the FTA Regional Administrator for the region administering its project or the FTA Associate Administrator for the program office administering its project within five (5) working days of the date when the protester has identified other grounds for appeal to FTA. For example, other grounds for appeal include the PROCURING AGENCY's failure to have or failure to comply with its protest procedures or failure to review the protest.

Violations of Federal law or regulation will be handled by the complaint process stated within that law or regulation. Violations of State or local law or regulations will be under the jurisdiction of State or local authorities.

**21. No Federal Government Obligations to Third Parties**

The No Obligation clause extends to all third party contractors and their contracts at every tier.

The Owner 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 Owner, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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

**22. Contract Work Hours and Safety Standards**

For all contracts in excess of \$100,000 the Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*, and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5 and as referenced in 2 CFR part 200 Appendix II (E).

The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

Such records maintained under this paragraph shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job.

The contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

**23. Program Fraud and False or Fraudulent Statements or Claims and Related Acts**

The Program Fraud clause requirements extend to all third party contractors and their sub-contracts at every tier.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities in connection with this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may apply, the Contractor also 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, as amended, on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

(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.

**24. Access to Records and Reports and Record Retention**

The record keeping and access requirements extend to all third party contractors and their contracts at every tier. Under 49 U.S.C. § 5325(g) and 2 C.F.R. § 200.336, FTA has the right to examine and inspect all records, documents, and papers, including contracts, related to any FTA project financed with Federal assistance authorized by 49 U.S.C. Chapter 53.

a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and

reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required. .

The Contractor agrees to permit, and require its subcontractors to permit, the U.S. Secretary of Transportation, and the Comptroller General of the United States, and, to the extent appropriate, the State, or their authorized representatives, upon their request to inspect all Project work, materials, payrolls, invoices, and other data, and to audit the books, records, and accounts of the Contractor and its subcontractors pertaining to the Project, as required by 49 U.S.C. § 5325(g) and 2 C.F.R. § 200.336.

Contractor also agrees, pursuant to 49 C.F.R. 633.17 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 U.S. D. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5303, 5307, 5309, 5339, 5310, 5311, 5316, or 5317.

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 State of North Carolina, Office of the State Auditor, now requires that all records now be retained for a period of five (5) years after that 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 the Purchaser, 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.

## **25. Privacy**

To the extent that the Contractor, or its subcontractors, if any, or any to their respective employees administer any system of records on behalf of the Federal Government, Contractor agrees to comply with, and assure the compliance of its subcontractors, if any, with the information restrictions and other applicable requirements of the Privacy Act of 1974, as amended, 5 U.S.C. Sect. 552, (the Privacy Act).

The Contractor shall obtain the express consent of the Department and the Federal Government before the Contractor, and any subcontractors, or any of their respective employees operate a system of records on behalf of the Federal Government. Failure to do so may result in termination of the Contract and civil and criminal penalties for violation of the Privacy Act.

The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

## **26. Public Transportation Employee Protective Arrangements**

The Public Transportation Employee Protective Arrangements apply to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator.

The employee protective arrangements clause flows down to all third party contractors and their contracts at every tier.

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. **U.S. DOL Certification.** Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.
2. **Special Warranty.** When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.
3. **Special Arrangements.** The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

**27. Project Labor Agreements (formerly Neutrality in Labor Relations)**

As a condition of contract award, the Owner may require a third party contractor or subcontractor to have an affiliation with a labor organization such as a project labor agreement, consistent with Executive Order No. 13502, "Use of Project Labor Agreements [PLA] for Federal Construction Projects," February 6, 2009, 41 U.S.C. ch. 39, Refs & Annos., except as the Federal Government determines otherwise in writing.

**28. Federal Motor Carrier Safety Administration**

The Contractor and its subcontractors will comply with the applicable provisions of the following promulgated U.S. Federal Motor Carrier Safety Administration (FMCSA) regulations.

Financial Responsibility.

1. To extent that the Contractor or its subcontractor is engaged in interstate commerce and not within a defined commercial zone, the Contractor agrees to comply with U.S. FMCSA regulations, "Minimum Level of Financial Responsibility for Motor Carriers", 49 U.S.C. Part 387, Dealing with economic registration and insurance requirements.
  - a) The provisions of 49 U.S. C. § 31138(e)(4), which supersede inconsistent provisions of 49 U.S.C. Part 387, and also reduce the amount of insurance the Procuring Agency must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310 and 5311.
2. To extent that the Contractor or its subcontractor is engaged in interstate commerce and not within a defined commercial zone, and the Procuring Agency is not a unit of government (defined as Federal Government, a state, any political subdivision of a state or any agency established under a compact

between states), the Contractor agrees to comply with U.S. FMCSA regulations, Subpart B, “Federal Motor Carrier Safety Regulation”, at 49 CFR Parts 390 through 397.

Driver Qualifications.

1. The Contractor or its subcontractor agree to comply with U.S. FMCSA’s regulations, “Commercial Driver’s License Standards, Requirements, and Penalties”, 49 CFR Part 383.
2. The Contractor or its subcontractor agree to comply with U.S. FMCSA’s regulations, “State Compliance with Commercial Driver’s License”, 49 CFR Part 384.

Substance Abuse Rules for Motor Carriers

1. The Contractor or its subcontractor agree to comply with U.S. FMCSA’s regulations, “Drug and Alcohol Use and Testing Requirements” 49 CFR Part 382, which apply to transit providers that operate a commercial motor vehicle that has a gross vehicle weight rating over 26,001 pounds or is designed to transport sixteen (16) or more passengers, including the driver.

**29. National Intelligent Transportation Systems Architecture and Standards (applicable to ITS projects)**

To the extent applicable, the Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards requirements of 23 U.S.C. § 517(d), unless it obtains an exemption from those requirements, and follow FTA Notice, “FTA National ITS Architecture Policy on Transit Projects,” 66 Fed. Reg. 1455, January 8, 2001 and all other federal guidance.

**30. Charter Service**

The Charter Bus requirements apply to contracts for operating public transportation service. The Charter Bus requirements flow down from Procuring Agency to first tier service contractors.

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(d);
2. FTA regulations, “Charter Service,” 49 C.F.R. part 604;
3. Any other federal Charter Service regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA’s Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include:

1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA;
2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA’s Charter Service regulations; or
3. Any other appropriate remedy that may apply.

The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

31. **School Bus Operations**

The School Bus requirements apply to contracts for operating public transportation service. The School Bus requirements flow down from Procuring Agency to first tier service contractors.

The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, "School Bus Operations," 49 C.F.R. part 605;
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

32. **Substance Abuse Requirements**

Contractors who perform *safety-sensitive functions* must comply with FTA's substance abuse management program under 49 C.F.R. Part 655, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations." Under 49 C.F.R. § 655.4, *safety-sensitive function* means any of the following duties, when performed by employees of operators or contractors:

1. Operating a revenue service vehicle, including when not in revenue service;
2. Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
3. Controlling dispatch or movement of a revenue service vehicle;
4. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. § 5307 or § 5309, is in an area less than 200,000 in population, and contracts out such services; or an employer who receives funding under 49 U.S.C. § 5311 and contracts out such services;
5. Carrying a firearm for security purposes.

Additionally, Contractors providing testing services involving the performance of safety sensitive activities must also comply with 49 C.F.R. Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs."

The Substance Abuse requirements flow down to all contractors at every tier who perform a safety-sensitive function for the Procuring Agency.

FTA's drug and alcohol rules, 49 C.F.R. Part 655, are unique among the regulations issued by FTA. First, they require grant recipients to ensure that any entity performing a safety-sensitive function on the recipient's behalf (usually subrecipients and/or contractors) implement a complex drug and alcohol testing program that complies with part 655. Second, the rules condition the receipt of certain kinds of FTA funding on the recipient's compliance with the rules; thus, the recipient is not in compliance with the rules unless every entity that performs a safety-sensitive function on the recipient's behalf is in compliance with the rules. Third, the rules do not specify how a recipient ensures that its subrecipients and/or contractors comply with them.

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

FTA has developed three model contract provisions for recipients to use "as is" or to modify to fit their particular situations.

### **DRUG & ALCOHOL COMPLIANCE**

**Option 1**

The PROCURING AGENCY ensures the contractor's compliance with the rules by requiring the contractor to participate in a drug and alcohol program administered by the PROCURING AGENCY. The advantages of doing this are obvious: the PROCURING AGENCY maintains total control over its compliance with 49 C.F.R. Part 655. The disadvantage is that the PROCURING AGENCY, which may not directly employ any safety-sensitive employees, has to implement a complex testing program. Therefore, this may be a practical option for only those PROCURING AGENCYS that have a testing program for their employees, and can add the contractor's safety-sensitive employees to that program.

**Option 2**

The PROCURING AGENCY relies on the contractor to implement a drug and alcohol testing program that complies with 49 C.F.R. Part 655, but retains the ability to monitor the contractor's testing program; thus, the PROCURING AGENCY has less control over its compliance with the drug and alcohol testing rules than it does under Option 1. The advantage of this approach is that it places the responsibility for complying with the rules on the entity that is actually performing the safety-sensitive function. Moreover, it reserves to the PROCURING AGENCY the power to ensure that the contractor complies with the program. The disadvantage of Option 2 is that, without adequate monitoring of the contractor's program, the PROCURING AGENCY may find itself out of compliance with the rules.

**Option 3**

The PROCURING AGENCY specifies some or all of the specific features of a contractor's drug and alcohol compliance program. Thus, it requires the PROCURING AGENCY to decide what it wants to do and how it wants to do it. The advantage of this option is that the PROCURING AGENCY has more control over the contractor's drug and alcohol testing program, yet it is not actually administering the testing program. The disadvantage is that the PROCURING AGENCY has to specify and understand clearly what it wants to do and why.



## **SUBSTANCE ABUSE TESTING**

**Option 1**

The Contractor agrees to participate in AGENCY's drug and alcohol program established in compliance with 49 C.F.R. Part 655.

**Option 2**

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. parts 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of [name of State], or AGENCY, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with parts 655 before [insert date] and to submit the Management Information System (MIS) reports before [insert date before March 15] to [insert title and address of person responsible for receiving information]. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the *Federal Register*.

**Option 3**

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of [name of State], or AGENCY, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with parts 655 before [insert date] and to submit the Management Information System (MIS) reports before [insert date before March 15] to [insert title and address of person responsible for receiving information]. To certify compliance the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The Contractor agrees further to [Select a, b, or c] (a) submit before [insert date or upon request] a copy of the Policy Statement developed to implement its drug and alcohol testing program; OR (b) adopt [insert title of the Policy Statement the PROCURING AGENCY wishes the contractor to use] as its policy statement as required under 49 C.F.R. part 655; OR (c) submit for review and approval before [insert date or upon request] a copy of its Policy Statement developed to implement its drug and alcohol testing program. In addition, the Contractor agrees to: [to be determined by the PROCURING AGENCY, but may address areas such as: the selection of the certified laboratory, substance abuse professional, or Medical Review Officer, or the use of a consortium].

**33. State and Local Disclaimer**

The Owner does not warrant or make any representation as to the accuracy or completeness of the information, text, graphics, links and other items contained in this document or on this server or any other server. Such materials have been compiled from a variety of sources and are subject to change without notice from the State and FTA.

**34. Geographic Preference**

Procurements shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in evaluation or award of bids or proposals, except where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws.

**35. Incorporation of Federal Transit Administration (FTA) Terms**

The preceding provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the preceding contract provisions. In order to comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its third party procurements, all contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, the current Master Agreement, and 2 C.F.R 200 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 requests which would cause the Procuring Agency to be in violation of the FTA terms and conditions.

**36. Hold Harmless**

Except as prohibited or otherwise limited by State law, the Contractor agrees to indemnify, save, and hold harmless the Owner of this Contract and its officers, agents, and employees acting within the scope of their official duties against any liability, including all claims, losses, costs and expenses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor or subcontractor in the performance of this contract and that are attributable to the negligence or intentionally tortuous acts of the contractor.

The Contractor represents and warrants that it shall make no claim of any kind or nature against the Owner or its agents who are involved in the delivery or processing of contractor goods to the Owner. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.

**37. Safe Operation of Motor Vehicles**

The Safe Operation of Motor Vehicles requirements flow down to all third party contractors at every tier. In compliance with Federal Executive Order No. 13043, April 16, 1997, 23 U. S. C. § 402 (Increasing Seat Belt

Use) and Executive Order No. 13513 Reducing Text Messaging While Driving,” October 1, 2009, 23 U.S.C. Section 402 note, and DOT Order 3902.10, “Text Messaging While Driving,” December 30, 2009,

**Seat Belt Use** - The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned, rented, or personally-operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or Owner.

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

**38. Exclusionary or Discriminatory Specifications or Requirements**

The Contractor agrees that it will comply with the requirements of 49 U.S.C. Sect. 5325(h) by refraining from using any funds derived from FTA in performance of this Contract to support any sub-contracts that use exclusionary or discriminatory specifications or requirements.

**39. North Carolina State Ethic’s Requirement**

Pursuant to Executive Order # 24, this section should be included in the terms and conditions of all contracts let by the Governor’s Cabinet Agencies and the Office of the Governor:

- 1) “By Executive Order 24 and N.C. G.S.§ 133-32, it is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor’s Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:
  - (1) have a contract with a governmental agency; or
  - (2) have performed under such a contract within the past year; or
  - (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24.”

To be added near the signature portion of all contracts let by the Governor’s Cabinet Agencies and the Office of the Governor:

“N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.”

**40. Sensitive Security Information**

Each third party contractor must protect, and take measures to ensure that its subcontractors at each tier protect, "sensitive security information" made available during the administration of a third party contract or subcontract to ensure compliance with "The Homeland Security Act", as amended, specifically 49 U.S.C. Section 40119(b), The Aviation and Transportation Security Act, as amended, 49 U.S.C. § 114(r), U.S. DOT regulations, "Protection of Sensitive Security Information," 49 C.F.R. part 15, and U.S. Department of Homeland Security, Transportation Security Administration regulations, "Protection of Sensitive Security Information," 49 C.F.R. part 1520.

**41. NC E-Verify Requirements**

To ensure compliance with the E-Verify requirements of the General Statutes of North Carolina, all contractors, including any subcontractors employed by the contractor(s), by submitting a bid, proposal or any other response, or by providing any construction, material, equipment, supplies and/or services or installation, attest and affirm that they are aware and in full compliance with Article 2 of Chapter 64, (NCGS64-26(a)) relating to the E-Verify requirements by executing and submitting the E-verify Affidavit included in this Invitation for Bids as **Attachment E. (Must be completed for all bids/quotes requiring service.)**

**42. Domestic Preference Clause**

Pursuant to 2.C.F.R. 200.322 Contractor, as appropriate and to the extent consistent with law, should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States, including but not limited to iron, aluminum, steel, cement and other manufactured products.

**43. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services As used in this clause

(b) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

- (ii) (Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit contractors from providing—

- a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: a. Covered telecommunications equipment or services that:

- i. Are not used as a substantial or essential component of any system; and
- ii. Are not used as critical technology of any system.

b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

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

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

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

(e) Subcontracts

The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instrument.

Section 9 Pricing Structure

**Non-Emergency Transportation**

Fill in the cost for providing the services listed below. You may also submit pricing for other services you provide out only those transit points you wish to service. Flat Rate Pricing is preferred. **One-way trips will be calculated at 50% of the round-trip rate.**

TYPE OF SERVICE PROVIDED	FLATE RATE	ROUND TRIP	PRICE PER MILE
Ambulatory (Inside City Limits)	\$	\$	\$
Non-Ambulatory/wheelchair bound (Inside City Limits)	\$	\$	\$
Ambulatory (Outside City/Within County)	\$	\$	\$
Non-Ambulatory/wheelchair bound(Outside City/Within County)	\$	\$	\$
Ambulatory to Carolina Beach	\$	\$	\$
Non-Ambulatory/Wheelchair bound to Carolina Beach	\$	\$	\$
Ambulatory (Outside County)	\$	\$	\$
Non-Ambulatory/wheelchair bound (Outside County)	\$	\$	\$
	\$	\$	\$
Group rate (5 or more passengers)	\$	\$	\$
	\$	\$	\$
	\$	\$	\$
	\$	\$	\$
	\$	\$	\$
	\$	\$	\$
	\$	\$	\$

The Contractor may complete both columns or just one, each will be reviewed. The undersigned certifies that their service being offered will meet or exceed the minimum specifications as presented in the attached proposal package.

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

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

\_\_\_\_\_  
Company Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
Officer Signature/Title

\_\_\_\_\_  
Federal Tax ID / SS#

## Section 10 Additional Information

The information provided below contains responses to questions received from bidders related to the Request for Proposals (RFP) issued by the County in 2019 for Non-Emergency Transportation Services.

1. DSS and Senior Resource Center coordinates all non-emergency transportation services for eligible passengers. Services are provided 24 hours per day/7 days per week, 365 days per year. How will the Awarded contractor receive the requested trips from DSS and SRC? Would it be the day before or a Daily/Weekly file and what format? Excel format?

DSS will send in an CSV/Excel format, a schedule 3 days prior to the date of the client's appointment for Medicaid Transportation. For the Work First and Family Support Programs at DSS, vendors will be provided an authorization at a minimum of one day prior to the date of transportation via email/fax. The Case Worker will follow up to make sure the authorization was received. On rare occasions, a same day request for transportation maybe requested.

The SRC will send a demand trip schedule or changes to fixed routes in an excel format 2 business day in advance. On rare occasion, a same day request for transportation maybe requested.

2. On occasion, trips for DSS eligible passengers are provided for appointments outside New Hanover County. Do you have the Average monthly occurrence and trip length for these trips (DSS and SRC)? For DSS, the average out-of-county trips is approximately 10% of our monthly volume. Trip length varies to location (i.e., Raleigh, Charlotte, Jacksonville, etc.).

SRC does not typically schedule trips outside of New Hanover County. However, if special grant funds allow, there may be opportunities for out of county trips.

3. Will the awarded contractor be allowed to contact the member to confirm next-day appointments, or will this go through DSS and SRC?

For DSS, yes, you are able to contact the client to confirm the trip. Also, state and county Non-Emergency Medicaid Transportation policy requires clients to cancel trips 24 hours in advance or they will receive a "No-Show."

For SRC, yes, you are able to contact the client to confirm the trip. In the event the client has canceled or changed the appointment, it is the responsibility of the provider to inform the SRC of any changes or cancellations to that appointment.

4. Will member appointment changes or cancellations go through DSS and SRC? If through awarded contractor what would be the recommended days/hours of operation?

For DSS, all changes to a scheduled trip must be authorized by DSS for the Medicaid program. Cancellation of a trip must be made to DSS and the transportation vendor depending on when the client calls regarding the cancellation. (Note: Clients are advised to contact both entities to ensure compliance). For the Family Support and Work First programs, the client is responsible for the scheduling and cancellation of trips once the Social Worker has provided the initial authorization period to the vendor. The client is responsible for notifying the vendor and the Social Workers in the Family and Work First programs of any transportation changes pertaining to the authorization.

For SRC, all changes to a scheduled trip must be authorized by SRC. Cancellation of a trip must be made to SRC and the transportation vendor depending on when the client calls regarding the cancellation. (Note: Clients are advised to contact both entities to ensure compliance.) "Will Call" trips are pre-approved by the



SRC to allow a client to call the vendor for their return trip home. This allows the client to contact the vendor when their medical appointment is complete for their return trip home. Will Call trips are pre-identified on the schedule submitted to the vendor.

5. Are members allowed to book same day trips with both DSS and SRC or is there a 2-day minimum requirement, for example?

For DSS, NEMT is non-emergency Medicaid transportation, and requires a 3- day notice for in county trips and a 5-day advance notice for out-of-county trips. However, if a client's medical doctor determines a client's medical needs are urgent, then a same day trip can be authorized and sent to a transportation vendor. For the Family Support and Work First same day trips may occur occasionally, but a majority of the trips should be schedule at a minimum of 1 days' notice.

The SRC will provide the vendor with an approved schedule 2-business day in advance. However, on rare occasions if a client's medical doctor determines a client's medical needs are urgent, then a same day trip can be authorized and sent to a transportation vendor.

6. Can you tell us who the current NEMT Transportation Contractor(s) are?

For DSS, there are presently 6 vendors providing Medicaid, Family Support, and Work First transportation.

- Cape Fear Public Transportation
- Port City Taxi
- Med Trans of NC, LLC
- Ivory's Accessible Transport Services, Inc.
- New Hanover House. LLC DBA New Hanover House (Residents of New Hanover House Only)
- Castle Hayne AL Holdings, LLC DBA Castle Creek Memory Care (Residents of Castle Creek Memory Care Only)

For SRC, there are currently 5 vendors providing NEMT and general/nutrition transportation.

- Cape Fear Public Transportation
- Port City Taxi
- Med Trans of NC, LLC
- Ivory's Accessible Transport Services, Inc.
- Wilmington Transport

7. What is the Trip Volume per Month for 2021 for both DSS and SRC?

For DSS, the average trip volume varies from 4,000 to 4,200 trips per month.

For SRC, the average trip volume is 2100-2200 trips per month (this is depending on grant funding).

8. What's the approximate average percentage breakdown of transportation mode of trips for both DSS and SRC? Example: 75% of trips were Ambulatory and 25% Wheelchair?

For DSS, the monthly average for ambulatory vs. non-ambulatory trips fluctuates drastically depending on scheduled Medicaid appointments, client's ambulatory status (changes), and new clients coming onboard to DSS transportation. We estimate that wheelchair is approximately 8% of our trips and ambulatory.

For SRC, approximately 25% of trips require a wheelchair or lift to accommodate walkers/rollators.

9. What's the past member "No Shows" for NEMT services for both DSS and SRC?

For SRC and DSS, this figure varies considerably from vendor to vendor, but is estimated at approximately 5%.

10. What's the average trip length for NEMT services for both DSS and SRC?

For DSS, this varies considerably from the in county to out-of-county trips. The out of county trips average approximately 300 miles round trip. In county trips average between approximately 12 to 18 miles round trip.

For SRC this varies, but in county trips average between approximately 10 to 18 miles round trip.

11. Do you have the Average Percentage of "Will Call Trips" for return rides back home for both DSS and SRC?

For DSS, we set most return pick-up times at the time the client advises of their trip information, however, we do have a large population of clients (40%) who prefer to have a will call preferably over an established pick-up time.

For SRC the average will call is 50% for NEMT.

12. Will New Hanover County accept electronic signatures from members, or do they need to sign trip logs?

For DSS, confirmation of the clients travel to an approved Medicaid medical appointment is completed by a DMA Form 5118. An electronic signature is an acceptable form of a signed ride slip for fiscal purposes only to verify the client was provided transportation as documentation for charges invoiced.

For SRC, an electronic signature is an acceptable for of a signed ride slip for fiscal purposes only to verify the client was provided transportation as documentation for charges invoiced. Invoice must include the client's correct name, date, and time of service, and correct origin/destination address. For pickup trips from the SRC, drivers are to come into the SRC lobby and sign the transportation log including taxi number and time of arrival before taking passengers from the SRC.

13. The Service Provider shall comply with the County's purchasing policy. New Hanover reserves the right to reject any and/or all proposals in connection with this project, and to waive formalities in a proposal.

New Hanover County has a purchasing policy that requires at a minimum of \$1,000,000 or \$1,500,000 auto liability insurance as a standard minimum. Will these standards be administered/required for this RFP?

Yes. For a non-taxicab vendor seeking to provide Non-Emergency Medicaid Transportation services, it is required by Medicaid Policy that you carry a minimum \$1.5 million in auto liability. Taxicab liability insurance are set by local ordinances and can vary from county to county. New Hanover County requires, at a minimum, a combined single limit of \$500,000.00 for bodily injury (per person), \$500,000.00 Bodily Injury (per accident) and \$500,000 Property Damage (per accident); and a limit of \$2,000.00 for medical payment coverage. Taxicab companies may carry a high coverage if they so choose.

14. Considering Public Safety is Priority Number One, what will the required insurance minimums be for providing services under this proposed agreement with the Senior Resource Center and DSS?

**Insurance Requirements for Taxi Transportation Services**

The requirements listed below are the <b>GENERALLY ACCEPTED</b> insurance requirements for this class of business.		
Insurance Description		Minimum Limits of Insurance Required <b>**Subject to change depending on size/location/description of work**</b>
Commercial General Liability**		\$1mil Ea. Occurrence; \$1mil Products/Completed Operations; General Aggregate Limit shall apply separately to this project/location or the general aggregate limit shall be twice the required limit.
Business Auto Liability		<b>\$500,000</b> Bodily Injury (Per Person); <b>\$500,000</b> Bodily Injury (Per Accident); <b>\$500,000</b> Property Damage (Per Accident; Any Auto including Hired & Non-owned Liability; \$2K Medical Payments Coverage
Worker's Compensation Employer's Liability		Statutory Limits \$100,000/\$100,000/\$500,000
Additional Insured CG 20 26		<b>** New Hanover County (<u>not the department</u>)</b> , its officers, officials, agents and employees

**Insurance Requirements for Medical, General and Work First Transportation Services (Seating Capacity less than 15 Passenger**

The requirements listed below are the <b>GENERALLY ACCEPTED</b> insurance requirements for this class of business.		
Insurance Description		Minimum Limits of Insurance Required <b>**Subject to change depending on size/location/description of work**</b>
Commercial General Liability**		\$1mil Ea. Occurrence; \$1mil Products/Completed Operations; General Aggregate Limit shall apply separately to this project/location or the general aggregate limit shall be twice the required limit.
Business Auto Liability		\$1,500,000 Bodily Injury (Per Person); \$1,500,000 Bodily Injury (Per Accident); \$1,500,000 Property Damage (Per Accident; Any Auto including Hired & Non-owned Liability; \$2K Medical Payments Coverage
Worker's Compensation Employer's Liability		Statutory Limits \$1,000,000/\$1,000,000/\$1,000,000
Additional Insured CG 20 26		<b>** New Hanover County (<u>not the department</u>)</b> , its officers, officials, agents and employees

15. Audited Financial Statements:

1. Audited Financial Statement is required for the last period audited. Service Providers with total revenue, from all sources, of more than one hundred thousand dollars (\$100,000) in annual funding are **REQUIRED** to submit an annual Audited Financial Statement (AFS) prepared by a Certified Public Accountant.

There is no guarantee as to the amount of work any one vendor may be awarded, the \$100,000 threshold will not be met as a guarantee. Are Audited Financial Statements not a requirement of this RFP?

Audited financial statements are preferred; however, if they are not available, attach latest balance sheet and income statement. If balance sheet and income statement are not available, attach a copy of most recently filed federal tax return. (Firms may clearly indicate a request for confidentiality to avoid this item becoming part of a public record.)

16. Section 5- C. Employees - Drivers/Subcontractors

Item 2. Clean in appearance, clothing has visible driver and company name/logo identification. Polite and courteous to passengers. Smoking is not allowed inside the vehicles at any time.

What are the acceptable forms of visible driver and company name/logo identification?  
DSS will accept an official company badge and valid taxi permit, if applicable, as an acceptable form of driver identification.

17. Section 5 -D. Non-Emergency Transportation Service

Item 8. Invoices and signed ride slips must be received by the 5th of the month.

Are Digital Signature Acceptable forms of signed ride slips?

For DSS, an electronic signature is an acceptable form of signed ride slips for fiscal purposes only to verify the client was provided transportation. Proof of electronic signature must be provided with your invoice due by the 5<sup>th</sup> of each month. In addition, a completed DMA 5118 is requested to confirm clients traveled to a Medicaid medical appointment by the Medicaid Transportation Coordinators.

For SRC, an electronic signature is an acceptable form of signed ride for fiscal purposes only to verify the client was provided transportation. Proof of electronic signature must be provided with your invoice due by the 5<sup>th</sup> of each month.

18. Current Pricing for All Vendors Providing Services Under the existing DSS and Senior Resource Center Agreements? Can we have the current costing?

**New Hanover County Department of Social Services and SRC will not pay for no-shows, not ready or wait time.**

**Current Contract Prices**

*\*Prices on the bid tab are per round-trip, one-way trips are 50% of round-trip prices*

<b>Pricing is based on one-way trips.</b>				<b>Wilm</b>	<b>Ivory's</b>	<b>Med</b>	<b>Port City</b>	<b>WAVE Transit</b>	
				<b>Transport</b>	<b>Transport</b>	<b>Trans</b>	<b>Taxi</b>		
<b>Ambulatory (Inside City Limits)</b>				\$ 15.00	\$ 15.00	\$ 10.00	\$ 8.25	\$ 10.11	\$ 3.37
<i>In county, not South of Snow's Cut Bridge</i>									<i>plus per mile *</i>
<b>Non-ambulatory/wheelchair bound (Inside City Limit</b>				\$ 22.50	\$ 30.00	\$ 17.50	N/A	\$ 10.11	\$ 3.37
<i>In county, not South of Snow's Cut Bridge / wheelchair assistance</i>									<i>\$8 plus per mile *</i>
<b>Ambulatory (Outside City Limits / Within County)</b>				\$ 15.00	\$ 17.50	\$ 17.50	\$ 17.00	\$ 10.11	\$ 3.37
<i>In county, not South of Snow's Cut Bridge</i>									<i>plus per mile *</i>
<b>Non-ambulatory/wheelchair bound (Outside City / Within County)</b>				\$ 22.50	\$ 30.00	\$ 17.50	N/A	\$ 10.11	\$ 3.37
<i>In county, not South of Snow's Cut Bridge / wheelchair assistance</i>									<i>\$8 plus per mile *</i>
<b>Ambulatory to Carolina Beach</b>				\$ 20.00	\$ 22.50	\$ 17.50	\$ 19.00	\$ 10.11	\$ 3.37
<i>In county, South of Snow's Cut Bridge (Carolina &amp; Kure Beach / Fort Fisher)</i>									<i>plus per mile *</i>
<b>Non-ambulatory / wheelchair bound to Carolina Bea</b>				\$ 25.00	\$ 30.00	\$ 17.50	N/A	\$ 10.11	\$ 3.37
<i>In county, South of Snow's Cut Bridge (Carolina &amp; Kure Beach / Fort Fisher)</i>									<i>\$8 plus per mile *</i>
<b>Ambulatory (Outside County) price per mi</b>				\$ 1.80	\$ 1.75	\$ 1.49	\$ 1.60	Above	are 3 mile
								minimum	
<b>Non-ambulatory /wheelchair bound (Outside County</b>				\$ 2.00	\$ 1.75	\$ 1.49	N/A	N/A	
<b>Group Rate (5 or more passengers) In &amp; Out of County</b>				\$ 75.00		\$ 75.00	N/A	N/A	
<b>Group Rate (5 or more passengers) price per mile Out of County</b>					\$ 1.90				
									<i>* = 3 mile minimum</i>
									<i>\$10.11 plus</i>
									<i>\$3.37 are for</i>
									<i>trips 0-3 miles.</i>
									<i>Trips 4+ miles</i>
									<i>are only</i>
									<i>charged \$3.37</i>
<b>These were all of the bidders for the transportation RFP. All bidders were selected and will be awarded contracts and all have been notified of their successful bid.</b>									
<b>There is no additional cost for a care assistant riding with the client.</b>									

<b>Pricing is based on one-way trips. Medicaid Policy requires Adult Care Home to contract with DSS. They only service their own facility clients.</b>				<b>Castle</b>	<b>New Hanover</b>
				<b>Creek</b>	<b>House</b>
<b>Ambulatory (Inside City Limits) price per mile</b>				\$ 2.30	\$ 2.30
<i>In county, not South of Snow's Cut Bridge</i>					
<b>Non-ambulatory/wheelchair bound (Inside City Limits) price per mile</b>				\$ 2.30	\$ 2.30
<i>In county, not South of Snow's Cut Bridge / wheelchair assistance</i>					
<b>Ambulatory (Outside City Limits / Within County) price per mile</b>				\$ 2.30	\$ 2.30
<i>In county, not South of Snow's Cut Bridge</i>					
<b>Non-ambulatory/wheelchair bound (Outside City / Within County) price per mi</b>				\$ 2.30	\$ 2.30
<i>In county, not South of Snow's Cut Bridge / wheelchair assistance</i>					
<b>Ambulatory to Carolina Beach price per mile</b>				\$ 2.30	\$ 2.30
<i>In county, South of Snow's Cut Bridge (Carolina &amp; Kure Beach / Fort Fisher)</i>					
<b>Non-ambulatory / wheelchair bound to Carolina Beach price per mile</b>				\$ 2.30	\$ 2.30
<i>In county, South of Snow's Cut Bridge (Carolina &amp; Kure Beach / Fort Fisher)</i>					
<b>Ambulatory (Outside County) price per mi</b>				\$ 2.30	\$ 2.30
<b>Non-ambulatory /wheelchair bound (Outside County</b>				\$ 2.30	\$ 2.30

19. Current Vendor Insurance Certificates. Can we have a copy of the current vendor certificates of insurance including the driver and vehicle schedule, as required for all scheduled auto policies?  
You would need to submit a public records request to New Hanover County in order to obtain this information.

20. Current Vendor Fleet Schedule. Can we have a list of the current vehicles being provided to DSS and Senior Resource Center Passengers?

For DSS, transportation is provided via taxi cabs, wheelchair vans, and regular transport vans.

For SRC, transportation is provided via provider taxi cabs, wheelchair vans, and regular transport vans. The SRC owns and operates 1 para-transit van.

21. Although the RFP states that there is no guarantee of trips, can you please share how many trips were provided by each vendor, for the last annually reported period, and how many of them were wheelchair and non-wheelchair trips?

For DSS, the number of trips provided by each vendor is not available; however, in FY 2021 a total of 48,411 trips were provided for DSS of which 11% (5,527) were for wheelchair clients.

For SRC, the number of trips provided by each vendor is not available; however, in FY 2021 a total of 9584 trips were provided for SRC of which 15% were for wheelchair clients. *\*Please note, number of trips during COVID-19 were lower due to CDC stay at home orders. Number of trips in FY22 have increased from FY21.*

22. What % of trips for DSS and Senior Resource Center require wheelchair accessible vehicles?

For DSS, this requirement changes every week dependent upon which client is requesting transportation, and the ambulatory changes that are present. Based on current figures, we estimate around 10% of trips being wheelchair required.

For SRC, this requirement changes every week dependent upon which client is requesting transportation, and the ambulatory changes that are present. Based on current figures, we estimate around 15% of trips being wheelchair required.

23. What % of trips are standing orders compared to Demand Responsive?

For DSS, we schedule trips up to 30 days in advance. There is a large population of riders who have a daily requirement (i.e., Dialysis, Elderhaus, etc.) which is estimated at about 35%.

24. For trips that are pre-arranged, and the driver arrives at the pick-up location, waits for the passenger and the trip becomes a “No-Show” what amount of money is paid for this pre-arranged trip that has not become a no-show?

DSS and the SRC does not pay for no shows or wait time.

25. Current pricing submission format only allows for pricing for the first year for what could be a possible 5-year agreement. Are the prices being requested, being requested for all 5 years possible under this RFP? Or would you like responders to provide pricing for each year with their submission?

Responders should provide pricing for only one year.

**Annual Rates Adjustment:** Annual rates established will be effective July 1st of the current fiscal year. Contractor can request an annual rate adjustment by written request to the County by February 1st of the upcoming Fiscal Year to begin on July 1. The contractor's rate adjustment in contractual costs to the County shall not exceed the percentage rate computed based on the Annual Average Consumer Price Index for All Urban Consumers (CPI- U): US City Average, by expenditure category, All Items. This report is listed by the US Department of Labor' s Bureau of Labor Statistics on its website [www.bls.gov](http://www.bls.gov) . The maximum potential percentage increase for renewal will be calculated using the annual amounts from the previous two calendar years.

**Mid-Year Price Adjustment Clause:** Annual rate adjustment request and calculations are described in the "Annual Rate Adjustment". However, in the event there are periods of extreme inflation escalation due to Acts of God or War Time, the County will allow the Contractor by written request and justification to consider a temporary increase or decrease in unit pricing after the established July 1<sup>st</sup> annual rate adjustment. Based on Contractor's written request and justification, the County may approve an increase in unit prices on Contractor and County's agreed rates consistent with the amount requested in the justification in an amount not to exceed the increase in the Consumer Price Index, Wilmington, NC Area, for All Urban Customers (CPI-U) as published by the Bureau of Labor Statistics that is above 8.0% of the average baseline CPI-U for three consecutive months in the current Fiscal Year. The baseline CPI-U shall be the Annual Average Consumer Price Index for All Urban Consumers, CPI-U, U.S. Average, by expenditure category from the previous two calendar years. If the CPI-U is below 8% of the baseline, then the unit prices shall not be adjusted (the unit prices will not be decreased). Any price adjustment request from July 1-April 1, must include a written justification request to the County, must include a description of the basis for the adjustment, the proposed effective date, and reasons for said date, and the amount of the adjustment requested with documentation to support the requested change (e.g., CPI-U 8.0% increase for 3 consecutive months). If County approves a price adjustment after the July 1<sup>st</sup> established rates based on the mid-year price adjustment conditions and the CPI-U falls below 8% of the baseline for three conservative months, the annual rate adjustment established in the contact will revert back to the July 1 rates.

26. How will the trips be provided to the providers awarded a contract under this RFP, and how far in advance will the trips be provided?

For DSS, NEMT is non-emergency Medicaid transportation, and requires a 3- day notice for in county trips and a 5-day advance notice for out-of-county trips. However, if a client's medical doctor determines a client's medical needs are urgent, then a same day trip can be authorized and sent to a transportation vendor. DSS will continue to review client needs, medical necessity and medical provider location, and vendor costs prior to scheduling a client to a vendor for Medicaid Transportation. For the Family Support and Work First same day trips may occur occasionally, but a majority of the trips should be schedule at a minimum of 1 days' notice.

The SRC will provide the vendor with an approved schedule at a minimum of 2 business days in advance. However, on rare occasions if a client's medical doctor determines a client's medical need are urgent, then a same day trip can be authorized and sent to a transportation vendor. SRC will continue to review client needs, medical necessity and medical provider location, and vendor cost prior to scheduling a client to a vendor for all transportation. Vendor and trips will be selected by the most cost-effective means.

**AFFIDAVIT of COMPLIANCE with NC E-VERIFY STATUTES**

***(To be submitted with all bids)***

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_ (hereinafter the "Affiant"), duly authorized by and on behalf of \_\_\_\_\_ (hereinafter the "Employer") after being first duly sworn deposes and says as follows:

1. I am the \_\_\_\_\_ (President, Manager, CEO, etc.) of the Employer and possess the full authority to speak for and on behalf of the Employer identified above.
2. Employer understands that "E-Verify" means the federal E-Verify program operated by the United States Dept. of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law.
3. \_\_\_\_\_ Employer employs 25 or more employees in the State of North Carolina, and is in compliance with the provisions of N.C. Gen. Stat. §64-26. Employer has verified the work authorization of its employees through E-Verify and shall retain the records of verification for a period of at least one year.  
  
\_\_\_\_\_ Employer employs fewer than 25 Employees and is therefore not subject to the provisions of N.C. Gen. Stat. §64-26.
4. All subcontractors engaged by or to be engaged by Employer have or will have likewise complied with the provisions of N.C. Gen. Stat. §64-26.
5. Employer shall keep New Hanover County informed of any change in its status pursuant to Article 2 of Chapter 64 of the North Carolina General Statutes.

Further this affiant sayeth not.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Affiant

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

[SEAL]

My commission expires: \_\_\_\_\_



OVERDUE TAXES  
*(To be submitted with all bids)*

Instructions: Use company letterhead. All documents requiring the signature of the authorized representative for the Service Provider must be an original signature and the same representative must sign each copy of the Overdue Tax Letter, Conflict of Interest and Contract.

Date of Certification

To: New Hanover County

Certification:

We certify that the [insert organization's name] does not have any overdue tax debts, as defined by N.C.G.S. 105- 243.1, at the federal, State, or local level. We further understand that any person who makes a false statement in violation of N.C.G.S. 143C-6-23 c is guilty of a criminal offense punishable as provided by N.C.G.S. 143C-10-1b.

Sworn Statement:

I, [Name of Authorized Official] being duly sworn, say that I am [Authorized Official Title] of [insert name of organization] of [City] in the State of [Name of State]; and that the foregoing certification is true, accurate and complete to the best of our knowledge and was made and subscribed by me. I also acknowledge and understand that any misuse of State funds will be reported to the appropriate authorities for further action.

\_\_\_\_\_  
Authorized Official

(Signature must be the same as the person signing the contract)

<sup>1</sup>G.S. 105-243.1 defines: Overdue tax debt. – Any part of a tax debt that remains unpaid 90 days or more after the notice of final assessment was mailed to the taxpayer. The term does not include a tax debt, however, if the taxpayer entered into an installment agreement for the tax debt under G.S. 105-237 within 90 days after the notice of final assessment was mailed and has not failed to make any payments due under the installment agreement.”

## FEDERAL CERTIFICATIONS

**The undersigned states that:**

- a. He or she is the duly authorized representative of the Contractor named below;
- b. He or she is authorized to make, and does hereby make, the following certifications on behalf of the Contractor, as set out herein:
  - a. The Certification Regarding Nondiscrimination;
  - b. The Certification Regarding Drug-Free Workplace Requirements;
  - c. The Certification Regarding Environmental Tobacco Smoke;
  - d. The Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions; and
  - e. The Certification Regarding Lobbying;
- c. He or she has completed the Certification Regarding Drug-Free Workplace Requirements by providing the addresses at which the contract work will be performed;
- d. [Check the applicable statement]

[ ] He or she **has completed** the attached **Disclosure Of Lobbying Activities** because the Contractor **has made, or has an agreement to make**, a payment to a lobbying entity 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 a covered Federal action;

**OR**

[ ] He or she **has not completed** the attached **Disclosure Of Lobbying Activities** because the Contractor **has not made, and has no agreement to make**, any payment to any lobbying entity for influencing or attempting to influence any officer or employee of any agency, any Member of Congress, any officer or employee of Congress, or any employee of a Member of Congress in connection with a covered Federal action.

- e. The Contractor shall require its subcontractors, if any, to make the same certifications and disclosure.

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**Signature** **Title**

---

**Contractor Name** **Date**

**[This Certification Must be Signed by the Same Individual Who Signed the Proposal Execution Page]**

## I. Certification Regarding Nondiscrimination

**The Contractor certifies** that it will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (h) the Food Stamp Act and USDA policy, which prohibit discrimination on the basis of religion and political beliefs; and (i) the requirements of any other nondiscrimination statutes which may apply to this Agreement.

## II. Certification Regarding Drug-Free Workplace Requirements

1. The Contractor certifies that it will provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - b. Establishing a drug-free awareness program to inform employees about:
    - i. The dangers of drug abuse in the workplace;
    - ii. The Contractor's policy of maintaining a drug-free workplace;
    - iii. Any available drug counseling, rehabilitation, and employee assistance programs; and
    - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  - c. Making it a requirement that each employee be engaged in the performance of the agreement be given a copy of the statement required by paragraph (a);
  - d. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the agreement, the employee will:
    - i. Abide by the terms of the statement; and
    - ii. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
  - e. Notifying the Department within ten days after receiving notice under subparagraph (d)(ii) from an employee or otherwise receiving actual notice of such conviction;
  - f. Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(ii), with respect to any employee who is so convicted:

- i. Taking appropriate personnel action against such an employee, up to and including termination; or
  - ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).
2. The sites for the performance of work done in connection with the specific agreement are listed below (list all sites; add additional pages if necessary):

**Address**

Street

---

City, State, Zip Code

---

Street

---

City, State, Zip Code

---

3. Contractor will inform the Department of any additional sites for performance of work under this agreement.
4. False certification or violation of the certification may be grounds for suspension of payment, suspension or termination of grants, or government-wide Federal suspension or debarment. 45 C.F.R. 82.510.

**III. Certification Regarding Environmental Tobacco Smoke**

Public Law 103-227, Part C-Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000.00 per day and/or the imposition of an administrative compliance order on the responsible entity.

**The Contractor certifies** that it will comply with the requirements of the Act. The Contractor further agrees that it will require the language of this certification be included in any subawards that contain provisions for children's services and that all subgrantees shall certify accordingly.

#### **IV. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions**

##### **Instructions**

[The phrase "prospective lower tier participant" means the Contractor.]

1. By signing and submitting this document, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of the fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originate may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant will provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549, 45 CFR Part 76. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter any lower tier covered transaction with a person who is debarred, suspended, determined ineligible or voluntarily excluded from participation in this covered transaction unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this document that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized in paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment.

## **Certification**

1. **The prospective lower tier participant certifies**, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## **V. Certification Regarding Lobbying**

**The 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 any 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, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federally funded contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form SF-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award document for subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) who receive federal funds of \$100,000.00 or more and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

## VI. Disclosure Of Lobbying Activities

### Instructions

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

1. Identify the status of the covered Federal action.
2. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
3. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
4. If the organization filing the report in Item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
5. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
6. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
7. Enter the most appropriate Federal Identifying number available for the Federal action identified in Item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant, or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
8. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in Item 4 or 5.
9. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered Federal action.
- (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name and Middle Initial (MI).

10. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
11. Check the appropriate boxes. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
12. Check the appropriate boxes. Check all boxes that apply. If other, specify nature.
13. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
14. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
15. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D. C. 20503

**Disclosure Of Lobbying Activities**  
**(Approved by OMB 0344-0046)**



**Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352**

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract</p> <p><input type="checkbox"/> b. grant</p> <p><input type="checkbox"/> c. cooperative agreement</p> <p><input type="checkbox"/> d. loan</p> <p><input type="checkbox"/> e. loan guarantee</p> <p><input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. Bid/offer/application</p> <p><input type="checkbox"/> b. Initial Award</p> <p><input type="checkbox"/> c. Post-Award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial filing</p> <p><input type="checkbox"/> b. material change</p> <p><b>For Material Change Only:</b></p> <p>Year _____ Quarter _____</p> <p>Date Of Last Report: _____</p>
<p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Prime</p> <p><input type="checkbox"/> Subawardee Tier (if known) _____</p> <p>Congressional District (if known) _____</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p>Congressional District (if known) _____</p>	
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description:</p> <p>CFDA Number (if applicable) _____</p>	
<p>8. Federal Action Number (if known)</p>	<p>9. Award Amount (if known) \$</p>	
<p>10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):</p> <p align="center"><i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i></p>	<p>b. Individuals Performing Services (including address if different from No. 10a.) (last name, first name, MI):</p> <p align="center"><i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i></p>	
<p>11. Amount of Payment (check all that apply):</p> <p>\$ _____ € actual € planned</p>	<p>13. Type of Payment (check all that apply):</p> <p><input type="checkbox"/> a. retainer</p> <p><input type="checkbox"/> b. one-time fee</p> <p><input type="checkbox"/> c. commission</p> <p><input type="checkbox"/> d. contingent fee</p> <p><input type="checkbox"/> e. deferred</p> <p><input type="checkbox"/> f. other; specify: _____</p>	
<p>12. Form of Payment (check all that apply):</p> <p><input type="checkbox"/> a. cash</p> <p><input type="checkbox"/> b. In-kind; specify: Nature _____ Value _____</p>		
<p>14. Brief Description of Services Performed or to be Performed and Date(s) of Services, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11 (attach Continuation Sheet(s) SF-LLL-A, if necessary):</p>		
<p>15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>16. Information requested through this form is authorized by title 31 U. S. C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U. S. C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>	<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No: _____ Date: _____</p>	
<p>Federal Use Only</p>		<p>Authorized for Local Reproduction Standard Form - LLL</p>

## State Certifications

### Contractor Certifications Required by North Carolina Law

**Instructions:** The person who signs this document should read the text of the statutes and Executive Order listed below and consult with counsel and other knowledgeable persons before signing. The text of each North Carolina General Statute and of the Executive Order can be found online at:

- Article 2 of Chapter 64:  
[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/ByArticle/Chapter\\_64/Article\\_2.pdf](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_64/Article_2.pdf)
- G.S. 133-32: <http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=133-32>
- Executive Order No. 24 (Perdue, Gov., Oct. 1, 2009):  
<http://www.ethicscommission.nc.gov/library/pdfs/Laws/EO24.pdf>
- G.S. 105-164.8(b): [http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_105/GS\\_105-164.8.pdf](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_105/GS_105-164.8.pdf)
- G.S. 143-48.5: [http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_143/GS\\_143-48.5.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-48.5.html)
- G.S. 143-59.1: [http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_143/GS\\_143-59.1.pdf](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_143/GS_143-59.1.pdf)
- G.S. 143-59.2: [http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_143/GS\\_143-59.2.pdf](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_143/GS_143-59.2.pdf)
- G.S. 143-133.3: [http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_143/GS\\_143-133.3.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-133.3.html)
- G.S. 143B-139.6C: [http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_143B/GS\\_143B-139.6C.pdf](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_143B/GS_143B-139.6C.pdf)

### Certifications

- (1) **Pursuant to G.S. 133-32 and Executive Order No. 24 (Perdue, Gov., Oct. 1, 2009)**, the undersigned hereby certifies that the Contractor named below is in compliance with, and has not violated, the provisions of either said statute or Executive Order.
- (2) **Pursuant to G.S. 143-48.5 and G.S. 143-133.3**, the undersigned hereby certifies that the Contractor named below, and the Contractor's subcontractors, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system." E-Verify System Link: [www.uscis.gov](http://www.uscis.gov)  
Local government is specifically exempt from Article 2 of Chapter 64 of the North Carolina General Statutes. However, local government is subject to and must comply with North Carolina General Statute 153A-99.1, which states in part as follows:  
Counties Must Use E-Verify - Each county shall register and participate in E-Verify to verify the work authorization of new employees hired to work in the United States.
- (3) **Pursuant to G.S. 143-59.1(b)**, the undersigned hereby certifies that the Contractor named below is not an "ineligible Contractor" as set forth in G.S. 143-59.1(a) because:
  - (a) Neither the Contractor nor any of its affiliates has refused to collect the use tax levied under Article 5 of Chapter 105 of the General Statutes on its sales delivered to North Carolina when the sales met one or more of the conditions of G.S. 105-164.8(b); **and**
  - (b) [check **one** of the following boxes]
    - Neither the Contractor nor any of its affiliates has incorporated or reincorporated in a "tax haven country" as set forth in G.S. 143-59.1(c)(2) after December 31, 2001; **or**
    - The Contractor or one of its affiliates **has** incorporated or reincorporated in a "tax haven country" as set forth in G.S. 143-59.1(c)(2) after December 31, 2001 **but** the United States is not the principal market for the public trading of the stock of the corporation incorporated in the tax haven country.
- (4) **Pursuant to G.S. 143-59.2(b)**, the undersigned hereby certifies that none of the Contractor's officers, directors, or owners (if the Contractor is an unincorporated business entity) has been convicted of any violation of Chapter 78A of the General Statutes or the Securities Act of 1933 or the Securities Exchange Act of 1934 within 10 years immediately prior to the date of the bid solicitation.
- (5) **Pursuant to G.S. 143B-139.6C**, the undersigned hereby certifies that the Contractor will not use a

former employee, as defined by G.S. 143B-139.6C(d)(2), of the North Carolina Department of Health and Human Services in the administration of a contract with the Department in violation of G.S. 143B-139.6C and that a violation of that statute shall void the Agreement.

(6) The undersigned hereby certifies further that:

- (a) He or she is a duly authorized representative of the Contractor named below;
- (b) He or she is authorized to make, and does hereby make, the foregoing certifications on behalf of the Contractor; and
- (c) He or she understands that any person who knowingly submits a false certification in response to the requirements of G.S. 143-59.1 and -59.2 shall be guilty of a Class I felony.

Contractor's Name: \_\_\_\_\_

Contractor's Authorized Agent: Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_ Title \_\_\_\_\_

Witness: Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_ Title \_\_\_\_\_

# CERTIFICATION REGARDING NONDISCRIMINATION, CLEAN AIR ACT, CLEAN WATER ACT

## Certification Regarding Nondiscrimination

**The Contractor certifies** that it will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (h) the Food Stamp Act and USDA policy, which prohibit discrimination on the basis of religion and political beliefs; and (i) the requirements of any other nondiscrimination statutes which may apply to this Agreement.

**The Contractor** must comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented by the Department of Labor Regulations (41 CFR Part 60): The Executive Order prohibits federal contractors and federally-assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

Meaningful Access for LEP Individuals: **The Contractor** that participate in the SNAP must take reasonable steps to ensure that LEP persons have meaningful access to programs, services, and benefits. This includes the requirement to provide bilingual program information and certification materials and interpretation services to single language minorities in certain project areas. SNAP Contractors that do not provide meaningful access for LEP individuals risk violating prohibitions against discrimination based on National Origin in the Food and Nutrition Act of 2008, as amended, Title VI of the Civil Rights Act of 1964 (Title VI) and SNAP program regulations at 7 CFR 272A(b). They also risk noncompliance with the USDA policy guidance titled, "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons", published in 79 FR 70771 - 70784 (November 28, 2014).

**The Contractor** should develop an implementing plan to address the language assistance needs of the LEP population served. This may include contracting for oral interpretation services, hiring bilingual staff, arranging telephone interpreters and/or language lines, coordinating community volunteers, translating vital documents, and providing written notice that language services are available in appropriate languages. Quality and accuracy of the language service is critical in order to avoid serious consequences to the LEP person and to the recipient. LEP needs should be considered in developing budgets and front line staff should understand how to obtain language assistance services. For additional assistance and information regarding LEP matters, please also visit <http://www.lep.gov>.

Ensuring Equal Opportunity Access for Persons with Disabilities: **The Contractor** must also ensure equal opportunity access for persons with disabilities. This includes ensuring that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with people without disabilities. Contractors that do

not provide persons with disabilities equal opportunity access to programs may risk violating prohibitions against disability discrimination in the Rehabilitation Act of 1978, the American with Disabilities Act (ADA) of 1990, as amended, and SNAP program regulations.

DOJ published revised final regulations implementing Title II and Title III of the ADA on September 15, 2010. These regulations are codified at 28 CFR Part 35 "Nondiscrimination on the Basis of Disability in State and Local Government Services" and at 28 CFR Part 36 "Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities". In accordance with the implementing regulations, Contractors must provide auxiliary aids and services where necessary to ensure effective communication and equal opportunity access to program benefits for individuals with disabilities. The type of auxiliary aids and services required will vary, but a Contractor may not require an individual with a disability to bring another individual to interpret, and may rely on a person accompanying a disabled individual only in limited circumstances. When a Contractor communicates with applicants and beneficiaries by telephone, it must provide text telephone services (TTY) or have access to an equally effective electronic telecommunications system to communicate with individuals who are deaf, hard of hearing, or hearing impaired. Contractors must also ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities. For more information, please visit the ADA website: <http://www.ada.gov>.

#### **IV. The Clean Air Act, Section 306; 42 U.S.C. §7401 et seq. (1970)**

- a. No Federal agency may enter into any contract with any person who is convicted of any offense under section 113(c) for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.
- b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).
- c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.
- d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.
- e. The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section. [42 U.S.C. 7606]

#### **V. The Clean Water Act; 33 U.S.C. §1251 et seq. (1972)**

- a. No Federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this Act for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The

prohibition in preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

- b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.
- c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than 180 days after the enactment of this Act, cause to be issued an order:
  - (i) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and
  - (ii) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.
- d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.
- e. The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.
- f. No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.
- g. In paragraph (1), the term "commercial item" has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Agency/Organization

\_\_\_\_\_  
Date

(Certification signature should be same as Contract signature.)

**CERTIFICATE OF COMPLIANCE  
WITH BUY AMERICA ROLLING STOCK REQUIREMENTS**

***(To be submitted with all bids/proposals of \$150,000 or more. A bid, which does not include this certification or the certification under Attachment D, will not be eligible for award.)***

The bidder hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j), and the regulations in 49 CFR Part 661.11.

DATE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

COMPANY \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

My Appointment Expires \_\_\_\_\_

**CERTIFICATE OF NON-COMPLIANCE  
WITH BUY AMERICA ROLLING STOCK REQUIREMENTS**

***(To be submitted with all bids/proposals of \$150,000 or more. A bid, which does not include this certification or the certification under Attachment C, will not be eligible for award.)***

The bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. Section 5323(j)(2)(C), and regulations in 49 CFR 661.7.

DATE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

COMPANY \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

My Appointment Expires \_\_\_\_\_



## NON-EMERGENCY TRANSPORTATION SERVICES

### REQUEST FOR PROPOSALS CHECKLIST

- Complete and submit the Pricing Structure (See Section 9, page 47)
- Complete and submit the Affidavit of Compliance with NC E-Verify Form (See page 56 in RFP document)
- Complete and submit the Overdue Tax Letter form. (See page 57 in RFP document)
- Complete and submit the Federal Certifications form. (See pages 58–65; **All** pages must be submitted)
- Complete and submit the State Certifications form. (See pages 66-67; **Both** pages must be submitted)
- Complete and submit the Non-Discrimination, Clear Air Act, Clean Water Act form.  
(See pages 68-70; **All** pages must be submitted)

- Complete and submit the Certificate of Compliance with Buy America Rolling Stock Requirements  
(See pages 71 of the RFP document)

**OR**

Certificate of Non-Compliance with Buy America Rolling Stock Requirements  
(See pages 72 of the RFP document)

- Submit Proposal: Deadline – June 20, 2022 at 5:00 PM EST. Any late proposals will not be accepted.
  - Proposals may be emailed to [lbutler@nhcgov.com](mailto:lbutler@nhcgov.com). Please include “Non-Emergency Transportation Services” in the Subject Line of the email

**OR**

- Proposals may be hand delivered to:  
New Hanover County  
Attn: Lena Butler, Purchasing Supervisor,  
230 Government Center Drive, Suite 165,  
Wilmington, NC 28403.

Hand delivered proposals must include:

- One (1) original signed proposal.
- Four (4) copies of the proposal.
- One (1) USB drive containing complete proposal