



**SUBURBAN MOBILITY AUTHORITY for REGIONAL TRANSPORTATION**

**REQUEST FOR PROPOSALS**  
**Content Management Communication**  
**Software**

**RFP #23-3584A**

Prepared by: *Caleb Barrett*

SMART  
Procurement Department-Buhl Building  
535 Griswold Street, Suite 600  
Detroit, MI 48226

Electronic Submission Only

*Return to Attention of:*

Caleb J. Barrett

[cbarrett@smartbus.org](mailto:cbarrett@smartbus.org)

Senior Purchasing Agent

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**RFP Control Number: 23-3584A**

**RFP Due Date: 3:00 PM Eastern Time,**  
**October 3, 2022**

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VENDOR NAME: \_\_\_\_\_

REPRESENTATIVE NAME: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL: \_\_\_\_\_

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## **1.00 INTRODUCTION AND STATEMENT OF WORK**

### **1.01 Introduction and SMART Contact Information**

This Request for Proposals (RFP) is being solicited by the Suburban Mobility Authority for Regional Transportation (SMART), a public transportation authority in southeast Michigan that serves more than 10 million passengers annually.

Request For Proposals (RFP) Title:	Content Management Communication Software
RFP Control Number:	23-3584A
Date Advertised:	August 31, 2022
Date Issued:	August 31, 2022
Due Date:	October 3, 2022
Time:	3:00 PM Eastern Time
Location:	See Section 2.05: Instructions for Electronic Submission
Purchasing Agent:	Caleb J. Barrett
E-mail Address:	<a href="mailto:cbarrett@smartbus.org">cbarrett@smartbus.org</a>
Telephone Number:	(313) 223-2144
Procurement Manager:	Michele Pollock
Project Manager:	Beth Gibbons

### **1.02 Term of the Contract**

SMART is looking to award a three (3) year contract with two (2) additional one (1) year options. SMART shall have the full authority, at its sole and unilateral discretion, to exercise any options.

### **1.03 Scope of Work/Technical Specifications and Objective**

#### **Overview**

SMART is looking for a provider of a content management communication system for employees working onsite at all SMART locations (who do not have access to the SMART computer network or email system) and for those working from home.

The information communicated by this program will be displayed within three SMART Terminal and Administrative locations in Detroit. The units will be placed in the Driver and Maintenance lounges, Connector department and the Administration lunchroom or other places as deemed by SMART. The system should be capable of targeting different employee audiences and locations. The contract shall be three years with two one-year option years to be exercised at SMART's discretion.

**Content Needs**

Allow for the ability to stream and/or upload existing educational and information content to all employees on the following content. SMART will create content but also expects vendor to provide content or access to content libraries. Topics include, but are not limited to:

- Transportation/Public Transit-oriented
- Industrial/Maintenance/Mechanic-oriented
- Safety
- Morale
- Health
- Motivational
- Holiday
- Content should demonstrate diverse and inclusive audiences
- Vendor Content Development

**Display**

- Vendor shall provide Digital screens 50 inches or greater that work's effectively with the Software Application. All screens wall mounted. Please include manufacturer name, model number, and price. **(Installation Required)**
- Media Players **(Installation Required)**

**Software Needs**

- Web-based access 24/7
- Device Units to connect to digital screens (SMART will purchase approximately 8 Digital Screens)
- Ability to monitor health and status of each display
- Easily upload any file type
- Easy to use content management tools
- Allows for communication portals/channels based on location and audience
- Ability to use existing vendor content library and SMART developed content
- Multiple users and permission levels
- Local news, weather and traffic targeted to specific geographic location
- Expert installation service available
- Automatic Software updates
- No data sources the system will need to integrate with
- Help Desk

**Locations**

- Macomb Terminal, 22900 15 Mile Road, Clinton Township, MI
  - 2 Units
- Oakland Terminal, 2021 Barrett Drive, Troy, MI
  - 3 Units
- Wayne Terminal, 30000 Industrial Drive, Inkster, MI
  - 2 Units
- Administration, Buhl Building, 535 Griswold Street, Suite 600, Detroit, MI
  - 1 Unit

## 2.00 SOLICITATION PROCEDURES

### 2.01 Solicitation Schedule

Pre-Proposal Zoom Meeting (Section 2.02):	N/A
Requests for Clarification and Communications and Equal Performance Deadline (Section 2.03): Please submit all clarification questions to <a href="mailto:cbarrett@smartbus.org">cbarrett@smartbus.org</a>	September 8, 2022 3:00 PM, ET
Proposal Due Date and Time (Section 1.01):	October 3, 2022 3:00 PM, ET

### 2.02 Pre-Proposal Conference

☐ A Pre-Proposal Zoom Meeting will be held on the above date and time. The project will be discussed at the meeting; however, no statements should be viewed as modifications to the RFP unless issued as addenda. Attendance is encouraged, but is not mandatory.

☒ A Pre-Proposal Conference will not be held.

### 2.03 Offeror Communications

During the solicitation process, all forms of contact and correspondence in regard to any aspect of this solicitation shall only be with the Purchasing Agent identified in Section 1.01. Further, this Offer must be made based upon an independent price determination, and Offeror shall not have communications with others for the purpose of restricting competition. Any alleged breach of this Section may, at SMART's sole discretion, result in the rejection of the breaching Offeror's proposal and reporting of such conduct to any applicable governing authorities.

At any time before the Requests for Clarification and Communications Deadline (See Section 2.01), the Offeror may request a clarification, interpretation, or further explanation of any portion of this RFP. All such requests should be done on Request for Clarification form(s), as provided in Section 3.04. Offerors may also request approval of an item that deviates from the specifications stated in the Scope of Work. All such Requests and SMART's responses will be issued as addenda and made available to all prospective bidders. Approval, denial, and any other response to requests are in the sole discretion of SMART.

### 2.04 Addenda to the RFP

SMART reserves the right to amend the RFP at any time prior to the Proposal Due Date. Any such amendments will be issued as addenda to the RFP, and will become part of the RFP. Addenda will be posted exclusively on the MITN website, [www.mitn.info](http://www.mitn.info). All Offerors shall acknowledge the receipt of all addenda in their proposal. Failure to do so may result in the rejection of an Offeror's proposal, at SMART's sole discretion.

### 2.05 Proposal Content Requirements And Proposal Submission

Offerors must precisely follow all of the instructions of the RFP. All Quotes must include the entire RFP document. Failure to conform to all requirements may result, at SMART's sole discretion, in rejection of an Offeror's Quote. **Electronic submission only, attachments shall contain RFP all pages and company financials.**

TECHNICAL PROPOSAL

The Technical Proposal must include all information necessary for SMART to evaluate both the Offeror, and the Offeror's proposal. It must include the entire RFP document and all issues of responsibility and responsiveness, as set out in Section 2.08, "Qualification Requirements", and Section 2.09, "Evaluation Criteria". Additionally, all required (non-pricing) forms, and any Deviation forms related to the Technical Proposal, shall be included and properly completed.

PRICING PROPOSAL

The Pricing Proposal shall include all information necessary for SMART to evaluate the Offeror's proposed pricing, including any necessary supporting data. All required (pricing-related) forms including forms 3.01, 3.02 and 3.03, and any Deviations related to the Pricing Proposal, shall be included and properly completed.

**Instructions for Electronic Submission:**

1. Email to: [cbarrett@smartbus.org](mailto:cbarrett@smartbus.org)
2. Subject Line: SMART RFP #23-3584A Response – COMPANY NAME
3. If your submission requires more than 50 pages, send more than one email and include behind your company name "Email 1 of 2" or "Email 2 of 2," whatever applies. You may send as many emails as needed in order to complete your proposed response.
4. Please note, all requirements and due date requirements will remain in place. Your electronic submission must arrive in the purchasing agent's email no later than the due date and time.

If any issues should arise when submitting your bid, contact the purchasing agent via email at [cbarrett@smartbus.org](mailto:cbarrett@smartbus.org) at least 2 hours prior to the cut off time.

**2.06 Modification or Withdrawal of Proposals**

A modification of a proposal already received will be accepted by SMART only if the modification is received prior to the proposal Due Date, is requested by SMART, or is made in response to a request for revised proposals. All modifications shall be made in writing and executed and submitted in the same form and manner as the original proposals.

An offeror may withdraw a proposal prior to the proposal Due Date by submitting to SMART a written request for withdrawal executed by the offeror's authorized representative. The withdrawal of a proposal does not prejudice the right of an offeror to submit another proposal within the time set for receipt of proposals.

**2.07 Proposal Evaluation, Negotiation, and Selection**

Proposals will be evaluated, negotiated, and selected using the criterion and processes explained herein. In addition to disqualifying proposers and/or proposals based upon this process, SMART may, in its sole discretion, reject any or all proposals or Offerors for any reason. Additionally, offerors are hereby on notice that the lowest dollar cost bidder may not always be awarded a contract. Any and all Deviations, Clarifications, reservations, and additional or contradictory terms included in a bid may result in its rejection, at SMART's sole discretion. SMART also reserves the right to waive any defects or irregularities in any proposal, or to request that an Offeror provide any missing information and make corrections.

## 2.08 Qualification Requirements

Bids are first evaluated, as a threshold requirement to conduct business with SMART, to determine the responsibility of Offerors. **If it is found that an offeror does not meet these requirements, that offeror is deemed non-responsible and their Bid will be excluded from consideration for Bid award.** This determination is made in the sole discretion of SMART. Responsibility requirements are as follows:

- A. Sufficient financial strength and resources and capability to finance the work to be performed and complete the contract in a satisfactory manner as measured by one of the following:

1. Offeror's financial statements prepared in accordance with United States Generally Accepted Accounting Principles (GAAP) and audited or reviewed by an independent certified public accountant authorized to practice in the jurisdiction of either SMART or the offeror. If offeror does not have audited or reviewed financial statements, offeror may provide complete copies of the prior two year's signed federal tax returns.

2. Willingness of any parent company to provide the required financial guaranty evidenced by a letter of commitment signed by an officer of the parent company having the authority to execute the parent company guaranty as evidenced by a Corporate Resolution of the Parent Company. Such letter of commitment must be accompanied by the parent company's financial statements prepared in accordance with United States Generally Accepted Accounting Principles (GAAP) and audited or reviewed by an independent certified public accountant.

It should be noted that this information is requested for internal evaluation purposes only, and like any other information which forms part of a proposer's submission, it will be held in strict confidence. However, once a proposer is selected, some or all the information submitted may be subject to the Freedom of Information Act, unless it qualifies as an exemption. If you would like anything kept confidential, please mark the materials as such. Those materials will be returned to any proposers not selected. The materials of the selected vendor must be kept on file with SMART as part of the contract, however, in the event of a FOIA request, SMART will promptly notify the vendor and allow it the opportunity to seek judicial relief.

- B. Evidence that the human and physical resources of the Offeror are sufficient to perform the Contract as specified and assure delivery of all equipment and/ or services within the time specified in the Contract. Examples of ways to demonstrate this are as follows:

1. Evidence of sufficient personnel staffing levels with sufficient skills, training, expertise, to complete the Contract as required and satisfy any circumstances that may arise during the Contract;
2. Evidence of sufficient equipment to complete the Contract as required and satisfy any circumstances that may arise during the Contract.

- C. Evidence of satisfactory performance and integrity on past and current contracts. Examples of ways to demonstrate this are as follows:

1. References from past and current clients;
2. Awards and accolades based upon similar past and current projects;
3. Prior contractual successes with SMART.



- D. Compliance with all Equal Employment Opportunity laws and regulations. This may only be evidenced by proper completion of Form 3.06, "EEO / Affirmative Action Compliance".

## **2.09 Evaluation Criteria**

If a proposal has been determined to meet all Qualification Requirements and is not otherwise rejected, it is then evaluated based upon pricing and Evaluation Criteria for determining the competitive range or selection of a proposal for potential award.

Any and all Deviations, Clarifications, reservations, and additional or contradictory terms included in a proposal that did not result in rejection will be evaluated in this Section according to what evaluation criteria they affect.

- **Quality of Proposed Solution** – Meet or exceed specifications.
- **Qualifications of Vendor**
- **References** – Provide list of references to include company name, contact person & email address.
- **Price and price related factors**

## **2.10 Determination of the Competitive Range**

If proposal evaluation as explained in Section 2.08 and Section 2.09 does not provide sufficient information for SMART to select a proposal for potential award, SMART may, at its sole discretion, establish a competitive range of proposals for further discussion with SMART.

### Proposals Not Within the Competitive Range

Proposals that have been determined to be outside of the competitive range, and unable to be made within the competitive range at SMART's discretion, will be excluded from further evaluation and will not be considered for award.

### Proposals within the Competitive Range

The Offerors who are found by SMART to be within the competitive range, or whose proposals may be made to be within the competitive range (at SMART's discretion), will be notified in writing. SMART will then undertake to further evaluate the remaining Offerors through interviews, requests for clarifications, site visits, or any other analysis determined by SMART to be probative of the Offeror's ability to perform the Contract.

Any and all Deviations, Clarifications, reservations, and additional or contradictory terms included in a proposal may be negotiated at this time. Failure to come to a resolution acceptable to SMART may result in the rejection of that proposal from further consideration, at SMART's sole discretion.

No information, financial or otherwise, will be provided to any Offeror about any of the proposals from other Offerors within the competitive range during this process, and Offerors will not be told of their rankings in relation to other Offerors.

### **2.11 Best and Final Offers (BAFO)**

After further evaluation of the competitive range has been completed, each Offeror in the competitive range may be afforded, at SMART's sole discretion, the opportunity to amend its proposal and make its BAFO. SMART may also use the BAFO process, in the issuance of a Request for Revised Proposals, to clarify, modify, delete, or add work or terms to any portion of the RFP.

Any modifications to the initial proposal made by an Offeror shall be clearly identified in its BAFO. SMART will make any appropriate adjustments to the initial evaluation scores for any criteria which have been affected by modified or supplemental information supplied in the BAFO.

### **2.12 Notice of Intent to Award, and Contract Award**

Once SMART has determined the Offeror to which it intends to award the Contract, a Notice of Intent to Award letter will be sent to that Offeror requesting all Required Submissions, which are listed in Article 5.00. Failure to submit satisfactory documents within ten (10) business days may result, at SMART's sole discretion, in the contract being awarded to an alternative offeror. These documents must be accepted prior to initiation of work under the Contract. The Notice of Intent to Award does not bind SMART, and is not an acceptance of the Offer.

The acceptance of an Offer for award, if made, shall be evidenced only by a fully executed Offer and Award Form, Form 3.03, delivered in person, by mail, or electronically to the Offeror whose Offer is accepted. No other act by SMART shall evidence acceptance of an Offer. Such notice shall obligate said Offeror to commence performance under the Contract.

### **2.13 Protests**

Interested parties, as defined by FTA Circular 4220.1F, that believe they have been aggrieved by a solicitation or the award of any resulting contract may file a written notice of protest with the General Manager of SMART. This must be via certified mail, with a copy served upon SMART's General Counsel in the same manner. The General Manager or their designee shall review and determine the merits of any such protest. The General Manager may, at their sole discretion, schedule a hearing on the protest and/or receive evidence or legal argument from any interested party, but shall not be bound by the rules of evidence nor formal procedure. The General Manager shall issue their conclusion to the protesting party in writing via certified mail, and shall also advise the SMART Board of Directors.

Protests addressing the adequacy of the solicitation process, and all solicitation documents, must be received by the General Manager no later than five (5) business days before the Proposal Due Date (See Section 1.01). Notice of protest of the award of a solicitation must be received by the General Manager no more than five (5) business days after the SMART Board of Directors has authorized the General Manager to award a contract for that solicitation. Failure to adhere to these time limitations will result in the protested issue(s) being waived by all parties.

All determinations made by the General Manager are final. Review of protests and the disposition thereof filed with the FTA are governed by FTA Circular 4220.1F, as amended. All protests shall be made in accordance with any and all applicable laws, regulations and ordinances.

**2.14 Effect of Termination or Suspension of Contractor on Other Contractor and Bidders**

In the event the primary vendor is suspended or terminated, SMART reserves the right in its sole discretion to make the secondary vendor the primary vendor or to contract with a different contractor that either previously bid in response to this solicitation or through other contracting procedures consistent with SMART's contracting policy to be the primary vendor. SMART has the sole discretion to follow these same procurement procedures if the secondary vendor is terminated or suspended and SMART chooses to replace the secondary vendor.

### **3.00 REQUIRED FORMS AND SUBMISSIONS**

Forms 3.01-3.08 must be completed and included in the Offeror's Response to the Proposal, even though some may not seem to apply to this solicitation. Failure to complete any of these forms may result, at SMART's sole discretion, in the rejection of that proposal. Forms 3.01, 3.02, and 3.03 shall be submitted with the Price Proposal. The remaining forms shall be submitted with the Technical Proposal.

Article 5.00, *Required Submissions for Selected Vendor after Notice of Intent to Award*, details all submissions the successful Offeror must produce before being awarded the Contract. When SMART has chosen an Offeror to which it intends to award the Contract, a Notice of Intent to Award letter, see Section 2.12, will be sent to the recommended vendor and will require all submissions prior to the award of the Contract.

### 3.01 Pricing Schedule

The Offeror hereby offers to furnish to SMART all goods and/or services at the prices as proposed below, pursuant to all requirements, terms, and conditions as stated in the RFP and response.

Alternative pricing schemes may be proposed provided that they are in addition to a base proposal.

Pricing shall be valid for 120 days after the RFP due date.

Pricing shall be firm and fixed for the entire contract.

#### **Content Management Communication Software as stated in Section 1.03**

	Description	Location (s)	Unit(s)	Unit Cost	Total Cost
Year 1	Content Management Software License	4	8		
	ScreenFeed Software License	4	8		
Year 2	Content Management Communication Software	4	8		
	ScreenFeed Software License	4	8		
Year 3	Content Management Communication Software	4	8		
	ScreenFeed Software License	4	8		
Option Year 1	Content Management Communication Software	4	8		
	ScreenFeed Software License	4	8		
Option Year 2	Content Management Communication Software	4	8		
	ScreenFeed Software License	4	8		

REQUIRED FORMS

	Description	Location (s)	Unit(s)	Unit Cost	Total Cost
Media Player	Please Included Manufacturer Name & Model Number	4	8		
50"+ 24/7 Display	Please Included Manufacturer Name & Model Number	4	8		

	Description	Location (s)	Unit(s)	Unit Cost	Total Cost
Installation	WALL MOUNT INSTALL FEE - 50 TO 65 IN DISPLAY (PER DISPLAY)	4	8		
Installation	MEDIA PLAYER INSTALL FEE (MUST INCLUDE AT LEAST ONE DISPLAY INSTALL)	4	8		

Service	Description	Year 1	Year 2	Year 3	Option Year 1	Option Year 2
Content Development (Estimated 15 Hours Annually)	Content Creative Services					
Help Desk (Estimated 5 Hours Annually)	YEARLY HELP DESK SERVICE (Required for all media players and displays)					

**\*Provide as an attachment detail of the solution description and price proposed.**

NAME OF OFFEROR: \_\_\_\_\_

### **3.02 Acknowledgement of Addenda**

Addenda are published on the Michigan Intergovernmental Trade Network website, [www.mitn.info](http://www.mitn.info). Failure to acknowledge all addenda may result in rejection of any such proposal, at SMART's sole discretion.

The Offeror acknowledges receipt of the following addenda. **If the RFP 23-3584A did not have any addenda, please submit this form filled out as "NOT APPLICABLE".**

Addendum Number \_\_\_\_\_, Dated \_\_\_\_\_

Addendum Number \_\_\_\_\_, Dated \_\_\_\_\_

Addendum Number \_\_\_\_\_, Dated \_\_\_\_\_

Addendum Number \_\_\_\_\_, Dated \_\_\_\_\_

Name of Offeror: \_\_\_\_\_

Signature Of  
Authorized Signer: \_\_\_\_\_

Name And Title of Offeror's Authorized Official: \_\_\_\_\_

### 3.03 Offer and Award

By executing below, the Offeror hereby offers to furnish equipment and services as proposed, pursuant to all requirements, terms, and conditions as stated in the RFP and response, and incorporated in SMART's Request for Proposal No. 23-3584A. Offeror stipulates that all terms of the Contract are negotiated, and that the consideration for this Contract is real and not merely a recital. This Contract is valid and enforceable with electronic, facsimile, and mechanically reproduced signatures, and if separately countersigned. This Offer shall remain open and valid until the award of this Contract, or until the withdrawal of this solicitation, whichever is greater.

**Offer:**

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

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

City, State, Zip: \_\_\_\_\_

Legal Entity (Check One):  
☐ Individual / Sole Proprietor  
☐ C Corporation  
☐ S Corporation  
☐ Partnership  
☐ Trust / Estate  
☐ Limited Liability Company

State of Incorporation: \_\_\_\_\_

Tax ID Number: \_\_\_\_\_

Name of Authorized Official: \_\_\_\_\_

Signature of Offeror's Authorized Official: \_\_\_\_\_

Title of Offeror's Authorized Official: \_\_\_\_\_

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

By executing below, SMART accepts the Offer as indicated above.

**Award:**

\_\_\_\_\_  
Name and Title of SMART Official

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



### **3.04 Request for Clarification**

This form must be used to request clarifications, changes, substitutions, explanations, or approval of items equal to items with specified brand names. This form must be submitted by the Requests for Clarification and Communications Deadline, noted in Section 2.01. Each request must be submitted on a separate form. Multiple questions on the same form will not be answered. Attach additional pages if necessary. **If Offeror has no Requests for Clarification, please submit this form filled out as "NOT APPLICABLE".**

RFP Control Number: 23-3584A

Request Number: \_\_\_\_\_

Clarification Regarding RFP Section: \_\_\_\_\_

**Clarification:**

**Reason/Rationale for Request:**

**NAME OF OFFEROR:** \_\_\_\_\_

**SMART Response:**

### **3.05 Proposal Deviation**

This form must be completed for each condition, exception, reservation, understanding, additional or contradictory terms, etc. (i.e. deviation) in Offeror's proposal. Any and all deviations and rationale must be explicitly stated so that they may be properly evaluated. Deviations which SMART finds ambiguous, unfavorable, or unacceptable may result in lowered proposal evaluation scoring, or may result in the rejection of the proposal, at SMART's sole discretion. Copies of this form must be submitted for each deviation. Attach additional pages if necessary. **If Offeror has no Proposal Deviations, please submit this form filled out as "NOT APPLICABLE".**

RFP Control Number: 23-3584A

Deviation Number: \_\_\_\_\_

Deviation Regarding RFP Section: \_\_\_\_\_

**Deviation:**

**Reason for deviation:**

**NAME OF OFFEROR:** \_\_\_\_\_

### ***3.06 EEO / Affirmative Action Compliance***

SMART only conducts business with Offerors who are Equal Opportunity Employers. Offerors must complete this form regarding compliance. Offerors must comply with SMART's nondiscrimination requirements as set forth in Section 4.07, "Nondiscrimination".

Additionally, certain contractors that are awardees of federally-funded contracts are required to file affirmative action plans with government agencies as set forth in Executive Order 11246 and its implementing regulations, 41 C.F.R. Chapter 60. Please note that while Offeror may receive funds from, and provide transit-related employees to, other FTA direct and sub-recipients, this should not be considered when answering the questions below. To assist SMART in determining whether Offeror is required to have such a plan on file, please answer the following questions:

1. Does Offeror employ over fifty (50) transit-related employees<sup>1</sup> at SMART? \_\_\_\_ Yes      \_\_\_\_ No
  
2. Has Offeror completed in excess of \$1,000,000 in contracts with SMART in the past year? \_\_\_\_ Yes      \_\_\_\_ No

If Offeror answered "Yes" to both questions, please provide SMART with a copy of your Affirmative Action Plan and state below which government agency currently has Offeror's Affirmative Action Plan on file:

---

Offeror hereby affirms compliance with all Equal Employment and applicable Affirmative Action requirements as required by law and as set forth herein.

Name of Offeror: \_\_\_\_\_

Signature of Offeror's Authorized Official: \_\_\_\_\_

Name and Title of Offeror's Authorized Official: \_\_\_\_\_

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

Should you have any questions or concerns regarding the completion of this form, or compliance provisions set forth herein, please contact:

Austin Colson, EEO/ DBE / D&A Compliance Coordinator  
SMART  
Buhl Building, Suite 600  
535 Griswold  
Detroit, MI 48226  
Phone: (313) 223-2188 Fax: (248) 244-9231  
[acolson@smartbus.org](mailto:acolson@smartbus.org)

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<sup>1</sup> Transit-related employee refers to an employee of an FTA applicant, recipient, subrecipient, or contractor who is involved in any aspect of an agency's public transit operation funded by FTA. 49 CFR 4704.1a Sections 1.4 and 1.6.

### **3.07 Debarment and Suspension Certification**

#### **Certification of Primary Participation Regarding Debarment, Suspension and Other Responsibility Matters**

The Primary Participant and its Parent Company, if applicable, \_\_\_\_\_ certifies to the best of its knowledge and belief that it and its principals (including all officers, directors, owners, shareholders, managers, members, partners, principal investors, or other persons with management or supervisory responsibilities):

1. This contract is a covered transaction for purposes of 48 CFR Part 9, Subpart 9.4 and 2 CFR Part 180. As such, the contractor is required to verify that the contractor as defined at 48 CFR 9.403, Principal as defined under 2 CFR 180.995 or affiliates, as defined at 48 CFR 9.403 and 2 CFR 180.905, are not debarred under 48 CFR 9.406 or 2 CFR Part 180, Subpart H nor suspended under 48 CFR 9.407 or 2 CFR Part 180, Subpart G.
2. Have not within a three year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud of any kind or a civil or criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes, commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in Paragraph two (2) of this certification; and
4. Have not within a three year period preceding this bid had one or more public transactions (federal, state or local) terminated for cause or default.

If the Primary Participant (applicant for a FTA grant or potential third party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

The certification in this clause is a material representation of fact relied upon by SMART. If it is later determined that the bidder or proposer provided an erroneous certification, in addition to remedies available to SMART to terminate or suspend the contract arising from this solicitation, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 48 CFR Part 9 and 2 CFR Part 180 and any other disclosures required in this Section while this offer is valid and throughout the period of any contract that may arise from this offer, and has the affirmative obligation to notify SMART in writing to the contracting officer and the SMART General Manager by Certified Mail, of any events or circumstances that come into existence that would necessitate a change in, or a withdraw of, the certifications set forth in this section. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Signature of Offeror's Authorized Official: \_\_\_\_\_

Name and Title of Offeror's Authorized Official: \_\_\_\_\_

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

### 3.08 Conflict of Interest Certification

#### Conflict of Interest Certification

No employee, officer or member of the Board of Directors of SMART shall solicit or be a party, directly or indirectly, to any contract between him/herself and any firm of which he/she is a partner, member or employee. Kinship shall extend to all parents, children, grandparents, grandchildren, uncles, aunts, first cousins, nephews or nieces whether related by marriage or blood.

The contractor shall indicate below the names and kinship between the officers and/or principal beneficiaries of the firm bidding on this solicitation and any SMART employee, officer or board member who may exercise any discretion over the letting, evaluating, awarding or administering of this solicitation and resulting contract:

PLEASE INDICATE ANY RELATIONSHIPS BELOW. **IF NONE EXIST, please submit this form filled out as "NOT APPLICABLE".**

Name_____	Kinship_____
_____	_____
_____	_____
_____	_____

Name of Offeror: \_\_\_\_\_

Signature of Offeror's Authorized Official: \_\_\_\_\_

Name and Title of Offeror's Authorized Official: \_\_\_\_\_

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

## **4.00 GENERAL CONTRACTUAL PROVISIONS**

This Article contains terms and conditions of the Contract.

### **4.01 Contract, Contract Documents, and Conflicts**

The documents (including portions of the RFP), and materials incorporated therein, listed below constitute the complete contract (referred to throughout the solicitation as the "Contract") between SMART and the Offeror. This Contract contains the entire agreement of the parties, and supersedes all prior negotiations, agreements, conversations, communications, and any other understandings with respect hereto.

The Contract consists of:

1. Amendments, if applicable
2. Best and Final Offer, if applicable
3. Addenda, if applicable
4. Introduction and Statement of Work (Article 1.0)
5. General Contractual Provisions (Article 4.0)
6. All other Articles and Sections of the RFP, as issued
7. Offeror Proposal

All requirements and duties of the Contract issued by SMART are independent and shall augment any other similar requirements and duties stated herein. If any direct conflict among the requirements and duties of the Contract arises, the order of precedence shall be as listed above.

### **4.02 Amendments**

Amendments to this Contract are valid only if in writing and signed by the SMART Procurement Manager and an authorized representative of the Contractor. Notwithstanding, no amendments to this Contract are valid that are in violation of applicable laws, regulations, or SMART Board Policy.

### **4.03 Change Orders**

SMART reserves the right to require alterations in, additions to and deductions from the work initially contemplated in the formation of the Contract without rendering void the Contract. All work shall be described in a written Change Order signed by the SMART Procurement Manager. The contractor shall submit a detailed technical proposal for the amended requirements within 30 days if necessary, as determined by SMART. If the Contractor determines that any pricing changes will result from the Change Order, it shall be treated as a request for an amended pricing schedule and Contractor shall not proceed with the modified work until authorized by SMART. Amended pricing information shall be submitted with all backup documentation within 30 days. The proposed technical proposal and, if applicable, pricing schedule, shall be accepted or modified by negotiation. Disagreements arising under this Section that cannot be resolved by negotiation may result, at SMART's sole discretion, in a Termination for Default (See Section 4.14) of the Contract. SMART may alternatively elect, at its sole discretion, to revert to the original requirements of the Contract.

### **4.04 RFP and Proposal Omissions**

The Contractor shall have the responsibility of supplying all parts and services required to make the product complete and ready for service, even though such details may not be specifically set forth in the RFP or Proposal. If Offeror is uncertain about responsibility to supply parts or services due to perceived ambiguity within the RFP, it is the sole responsibility of the Offeror to submit Form 3.04, "Request for Clarification", or Form 3.05, "Proposal Deviation", as appropriate.

#### **4.05 Governing Law and Parties; Venue and Disputes**

This Contract and all related disputes shall be interpreted in accordance with the laws of the State of Michigan, except those which would direct the application of the laws of another jurisdiction. All disputes arising under this Contract shall be decided by arbitration if the parties mutually agree, or in a court in the State of Michigan of competent jurisdiction.

#### **4.06 Compliance with Law**

By signing Form 3.03, Offer and Award, Offeror certifies compliance with all applicable Federal, state, county, and local laws, regulations, ordinances, and codes; including those which the FTA requires all Offerors explicitly certify compliance with, as listed below:

American Recovery and Reinvestment Act	FTA Cargo Preference requirements
FTA Fly America requirements	Clean Air Act
Water Pollution Control Act	Davis-Bacon Act
Davis-Bacon Act	Copeland Anti-Kickback Act
Contract Work Hours and Safety Standards Act	Energy Policy and Conservation Act
Privacy Act	Iran Economic Sanctions Act

Additionally, Contractor certifies compliance with all FTA terms, including but not limited to FTA Circular 4220.1F, as amended, which are hereby incorporated. Contractor is responsible for the procurement of all required permits and licenses. Contractor further certifies compliance with all changes to the aforementioned laws, regulations, ordinances, codes, policies, etc., throughout the term of the Contract. Contractor additionally certifies that it is not an Iran-linked business as set forth in Michigan Public Act 517 of 2012.

Finally, Offeror shall determine whether any or all of the aforementioned requirements apply to any or all subcontractors, and certifies compliance by any such applicable subcontractors.

#### **4.07 Nondiscrimination**

In accordance with the Title VI of the Civil Rights Act of 1964, Section 303 of the Age Discrimination Act of 1975, section 202 of the Americans with Disabilities Act of 1990, 49 U.S.C. section 5332, the Michigan Elliot-Larsen Civil Rights Act, MCLA 37.2101 *et seq.*, and SMART policy, the Offeror agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, disability, height, weight, familial status, marital status, or sexual orientation.

#### **4.08 Price Adjustment for Regulatory Changes**

If price adjustment is required for changes that are mandatory as a result of legislation or regulations that are promulgated and become effective after the Due Date of the Contract, the adjustment shall be negotiated between SMART and the Contractor. Failure to successfully negotiate any adjustment may result, at SMART's sole discretion, in Termination for Default, Section 4.14, of the Contract.

#### **4.09 Payment and Retainage**

Subject to the terms of the Contract, SMART shall pay and the Contractor shall accept the amounts set forth in the price schedule as full compensation for all costs and expenses of completing the Work in accordance with the Contract, including but not limited to all labor and material required, overhead, expenses, storage and shipping, risks and obligations, taxes (as applicable), fees and profit, and any unforeseen costs.

## GENERAL CONTRACTUAL PROVISIONS

Contractor shall pay all subcontractors performing work under this Contract within **thirty (30)** days of receipt of a proper invoice for work performed satisfactorily. Contractor shall not withhold payment due to subcontractors that is being held by SMART as retainage.

**Payment Retainage** – For all progress payment contracts, Contractor shall be paid ninety (90) percent of the amount earned under the Contract and pursuant to the provisions set forth herein. SMART shall retain ten (10) percent to ensure faithful performance of the Contract, which shall be due as part of SMART's final payment under the Contract. All such invoices shall clearly set forth (a) the invoice amount, (b) the amount retained for that invoice, (c) the total amount billed toward the Contract, and (d) the total amount retained by SMART against the Contract.

### **4.10 Cancellation of Procurement**

SMART reserves the right to cancel this solicitation at any time before the Contract is fully executed, for any reason, and shall thereby incur no liability to any offeror or prospective offeror.

### **4.11 Indemnification**

The Contractor shall, indemnify and hold SMART, its Board of Directors, officers, employees and agents, and consultants, harmless from any and all liabilities, damages, claims, demands, liens, judgments, awards, costs, expenses, or other judicial or administrative proceedings, including expenses, costs, and attorney's fees, in the defense, settlement or satisfaction thereof for any injury, death, loss or damage to persons or property of any kind whatsoever arising out of or resulting from the negligent acts, errors, or omissions of the Contractor, including its officers, employees, servants, agents, subcontractors and suppliers. At SMART's sole discretion, the Contractor shall undertake at its own expense the defense of any such suit, action, or proceeding. The Contractor shall promptly notify SMART of the notice or assertion of any such suit, action, or proceeding. SMART will endeavor to furnish all reasonable assistance necessary for defending any such suit, action, or proceeding, and shall be repaid all reasonable costs incurred in doing so.

### **4.12 Records**

The Contractor shall retain records, including but not limited to, all data, documents, reports, records, and supporting materials relating to the project for whichever of the following events occurs **later**: 1. Six (6) years from the termination of the Contract; 2. The resolution of any litigation or settlement of any claims arising out of this Contract; or 3. The resolution of any exception to costs and expenses taken by SMART, the U.S. Department of Transportation, Comptroller General of the United States, or the State of Michigan.

SMART or its designee may perform audits of the Contractor, and, if applicable, all tiers of subcontractors, of financial information related to this Contract. The Contractor agrees to make these records, including but not limited to bank statements, general ledger, payroll records, and accounts receivable ledgers, available for review in a timely manner when requested by SMART. SMART also requires annual financial statements including balance sheets, income statements, and statements of cash flows. Contractor additionally agrees to provide the FTA, Comptroller General of the United States, the Secretary of the U.S. Department of Transportation, or any of their designees, access to any books, documents, papers, and records of the Contractor which are pertinent to or relate in any way to the Contractor's performance of this Contract for the purpose of making audits, excerpts, and transcriptions, or when conducting an audit and/or inspection.

In the event of a sole source Contract, single responsive offer, Contract modification, Change Order, or competitive negotiated procurement, SMART and the U.S. Department of Transportation, or their designees, shall have the right to examine all books, records, documents, and other costs and pricing data related to the Contract price. The right of examination shall extend to all documents necessary for adequate evaluation of the cost or pricing data.



#### **4.13 Termination or Suspension for Convenience**

SMART may terminate or suspend, at its sole discretion, this contract, in whole or in part, at any time by notice, in writing and with at least fifteen (15) days advance notice, to the Contractor when it is in SMART'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 any termination or during such suspension. The Contractor shall promptly submit any termination or suspension claim to SMART to be paid to the Contractor. If the Contractor has any property in its possession belonging to SMART, the Contractor will dispose of it in the manner SMART directs.

#### **4.14 Termination or Suspension for Default**

SMART may terminate or suspend, in its sole discretion, this Contract, in whole or in part, by written notice of default if the Contractor breaches any term or condition of this Contract, fails to perform the work in any aspect required within the RFP, fails to provide any required submissions or updates to certifications required by this contract, or any of the certifications or representations relied upon by SMART in entering into this contract have changed. This right to terminate or suspend may be exercised if the Contractor fails to cure all defaults listed within the notice of default within fifteen (15) days of the notice of default. The notice shall be in writing and signed by the Procurement Manager, and is effective on the date it is mailed to the Contractor. SMART shall be liable only for those services authorized and rendered, and/or goods received, before the effective date of termination, subject to any damage, incurred by SMART as a result of the termination. If the Contractor has any property in its possession belonging to SMART, the Contractor will dispose of it in the manner SMART directs. It shall be within SMART's sole discretion whether to terminate the contract or suspend for a period of time determined by SMART to allow the contractor further opportunity to cure any default.

#### **4.15 SMART's Right to Do Work**

If the Contract is terminated or suspended for default in whole or in part, as set forth in Section 4.14, "Termination or Suspension for Default", due to poor workmanship, deficient work, or incomplete work, SMART may, without prejudice to any other remedy it may have, repair or complete said work, and may deduct the cost thereof from payment then or thereafter due to the Contractor.

In such case, the Authority shall issue a Change Order deducting from payment then or thereafter due the Contractor the cost of correcting such work, including compensation for labor and/or any contracted services required to make corrections. If payment then or thereafter due to the Contractor is not sufficient to cover such amount, the Contractor shall pay the difference to the Authority within thirty (30) days of receiving an invoice from SMART.

#### **4.16 Confidentiality of Proposals**

Access to all documents in SMART's possession is governed by the Michigan Freedom of Information Act (FOIA). SMART will endeavor to not disclose any information it believes to be exempt under the FOIA, but does not guarantee any such non-disclosure. No deviations may be requested related to this Section.

#### **4.17 Succession, Assignment, and Subcontracting**

This Contract will be binding on the parties, their successors, and assigns, as well as all of Contractor's subcontractors of every tier. Contractor may not assign or subcontract its rights or obligations under the Contract without prior written permission of SMART. Names and addresses of all approved subcontractors must be provided to SMART and kept current throughout Contract performance.

#### **4.18 Survivability and Severability**

Contractor's obligations herein shall survive the nominal expiration of Contract obligations, and SMART may obtain any remedy under law, Contractor, or equity to enforce the obligations of the Contractor that survive the manufacturing, warranty, final payment, and all other Contract periods. If any provision of this Contract is deemed unenforceable, then the remainder of this Contract shall remain enforceable to the extent permitted by law.

#### **4.19 Waiver**

The failure by SMART to require performance of any provision shall not affect SMART's right to require performance at any time thereafter, nor shall SMART's waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

#### **4.20 Incorporation of RFP Document**

Offeror's proposal shall include all terms, conditions, explanations, work, etc. in this RFP document. If the Offeror fails to return portions of the solicitation with their proposal, those portions are incorporated by reference. Offeror may only deviate from the solicitation using a properly completed Deviation Form, (See Form 3.05). Any contradictory terms, conditions, explanations, work, etc. in the Offeror's proposal not accompanied by a properly completed Deviation Form shall not be incorporated into the Contract, at the sole discretion of SMART.

#### **4.21 Warranty**

The Offeror warrants and represents that all materials, goods, services, and equipment furnished under the Contract will be new, of good quality, free from defects of material or workmanship, and in conformance with the Contract documents for a period of one (1) year from the date they are furnished and accepted by SMART hereunder. This warranty is in addition to any other warranties provided under the Contract, and any and all warranties and remedies, express or implied, as provided by law or otherwise.

#### **4.22 Electronic Signature**

The Parties acknowledge and agree that this Contract may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. The Parties agree that the electronic signatures appearing on this Contract are the same as handwritten signatures for the purposes of validity, enforceability and admissibility. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

## **5.00 REQUIRED SUBMISSIONS FOR SELECTED VENDOR(S) AFTER NOTICE OF INTENT TO AWARD**

The following must be submitted by an Offeror within ten (10) business days of receipt of a Notice of Intent to Award as set forth in Section 2.12, "Notice of Intent to Award, and Contract Award".

### **A. Insurance**

The selected Offeror shall maintain such insurance as will provide indemnity for claims under the Workers' Compensation act and Employer's Liability; from claims for damages because of bodily injury, including death, to all others and from claims for damages to property - any or all of which may arise out of or result from the Vendor's operations under this contract, or from any subcontractor or anyone directly or indirectly employed by either of them.

Before starting any work for SMART, the Contractor must furnish original certificates of insurance stating that it carries insurance in the following types and minimum amounts:

Comprehensive General Liability	
- Each Occurrence BI/PD	\$1,000,000
- Personal and Adv. Injury	\$1,000,000
- General Aggregate	\$2,000,000
Products and Completed Operations	\$2,000,000
Automobile Liability	\$1,000,000 CSL
Employer's Liability	\$500,000
Workers' Compensation	Statutory Limits

Certificates must set forth the amounts of coverage, policy number, and expiration date, and must name SMART as an additional insured, and must provide for thirty (30) days advance written notice of cancellation or reduction in coverage. Coverage must be primary and non-contributory and provide a waiver of subrogation in favor of SMART. If the Contractor is self-insured, a certificate from the appropriate State agency must be furnished by such agency to SMART. If during the term of the Contract, the insurance certificate or any required coverage expires or is otherwise modified, the Contractor is responsible for providing renewed certificates. The purchase of insurance shall not be a satisfaction of the Contractor's indemnification requirements to SMART.

### **B. Other Required Submissions, if applicable**

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No others are required.

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Other submissions are required as follows: